



## LODI CITY COUNCIL

Carnegie Forum  
305 West Pine Street, Lodi

## AGENDA – REGULAR MEETING

Date: April 4, 2012

Time: Closed Session 6:00 p.m.  
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

**Randi Johl, City Clerk**  
**Telephone: (209) 333-6702**

6:55 p.m. Invocation/Call to Civic Responsibility. Invocations/Calls may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. These are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

### **C-1 Call to Order / Roll Call**

### **C-2 Announcement of Closed Session**

- a) Conference with Janice Magdich, Deputy City Attorney, and Dean Gualco, Human Resources Manager (Labor Negotiators), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6
- b) Conference with Janice Magdich, Deputy City Attorney (Labor Negotiator), Regarding Police Mid-Managers, Lodi Police Officers Association, and Lodi Police Dispatchers Association Pursuant to Government Code §54957.6

### **C-3 Adjourn to Closed Session**

**NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.**

### **C-4 Return to Open Session / Disclosure of Action**

#### **A. Call to Order / Roll Call**

#### **B. Presentations**

- B-1 Donate Life Month Proclamation
- B-2 Sexual Assault Awareness Month Proclamation
- B-3 Keep Lodi Beautiful Month Proclamation (CD)
- B-4 National Public Safety Telecommunicators Week Proclamation (PD)
- B-5 National Volunteers Week Proclamation (PD)
- B-6 Presentation of Library Volunteer of the Year Award (LIB)

#### **C. Consent Calendar (Reading; Comments by the Public; Council Action)**

- C-1 Receive Register of Claims in the Amount of \$2,474,702.70 (FIN)
- C-2 Approve Minutes (CLK)
  - a) March 20 and 27, 2012 (Shirtsleeve Sessions)
  - b) March 21, 2012 (Regular Meeting)

- C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Well 6R Granular Activated Carbon Treatment System (PW)
- C-4 Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Disabled Access Improvements, Various Locations (PW)
- C-5 Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Alley Reconstruction Project (PW)
- Res. C-6 Accept Improvements Under Contract for Central Plume PCE/TCE Remedial Measures Project and Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement and Extensions with Diede Construction Inc., of Woodbridge, for Operations and Maintenance Services and Appropriating Funds (\$558,870) (PW)
- Res. C-7 Adopt Resolution Authorizing the City Manager to Execute Amended Professional Services Agreement with HDR Engineering, Inc., of Folsom, for Construction Administration Services for Surface Water Treatment Facility (\$9,111) (PW)
- Res. C-8 Adopt Resolution Approving Memorandum of Understanding Between the City of Lodi and the Lodi Police Mid-Management Organization for the Period of January 1, 2012 through December 31, 2013 (CM)
- Res. C-9 Adopt Resolution Approving City of Lodi Risk Management and Compliance Program (EUD)
- C-10 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support to AB 1779 – Intercity Passenger Rail Act of 2012 for San Joaquin Corridor (Galgiani) (CLK)
- C-11 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support to HR 3544 – Litigation Reform for Cities (McClintock) (CLK)
- C-12 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support to HR 3125 – Earthquake Insurance Affordability Act (CLK)
- C-13 Set Public Hearing for April 18, 2012, to Consider Amending Lodi Municipal Code Chapter 13.20 – Electrical Service – by Repealing and Reenacting Section 13.20.175, “Schedule ECA – Energy Cost Adjustment,” in its Entirety to Include Flat Energy Cost Adjustment Option (EUD)

**D. Comments by the Public on Non-Agenda Items**

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

**E. Comments by the City Council Members on Non-Agenda Items**

**F. Comments by the City Manager on Non-Agenda Items**

**G. Public Hearings – None**

**H. Communications**

- H-1 Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission (CLK)
- H-2 Appointments to the Lodi Improvement Committee (CLK)

- I.      **Regular Calendar** – None
- J.      **Ordinances** – None
- K.      **Adjournment**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

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Randi Johl  
City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Donate Life Month Proclamation

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Mayor Mounce present proclamation proclaiming the month of April 2012 as "Donate Life Month" in the City of Lodi.

**BACKGROUND INFORMATION:** The Mayor has been requested to present a proclamation proclaiming the month of April 2012 as "Donate Life Month" in the City of Lodi. Sandy Andrada, Community Development Project Manager with the California Transplant Donor Network, will be at the meeting to accept the proclamation.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None.

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Randi Johl  
City Clerk

RJ/JMR

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Sexual Assault Awareness Month Proclamation

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Mayor Mounce present proclamation proclaiming April 2012 as “Sexual Assault Awareness Month” in the City of Lodi.

**BACKGROUND INFORMATION:** The Mayor has been requested to present a proclamation proclaiming the month of April 2012 as “Sexual Assault Awareness Month” in the City of Lodi. Jazmin Hurtado, Sexual Assault Prevention Specialist with the Women’s Center of San Joaquin County, will be at the meeting to accept the proclamation.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None.

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Randi Johl  
City Clerk

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Proclaim April "Keep Lodi Beautiful Month"

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Community Development Director

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**RECOMMENDED ACTION:** Mayor Mounce present a proclamation declaring the month of April 2012 as "Keep Lodi Beautiful Month" in the City of Lodi.

**BACKGROUND INFORMATION:** The Mayor has been requested to present a proclamation declaring the month of April 2012 as "Keep Lodi Beautiful Month" in the City of Lodi. Neighborhood Services Manager Joseph Wood and Waste Management representative Jennelle Bechthold, who have been coordinating this as one of the several activities for the annual "Great American Clean Up" campaign, will be present at the meeting to accept the proclamation.

Lodi is one of more than 10,000 communities nationwide that participate in the "Great American Clean Up" campaign, which is coordinated nationally by Keep America Beautiful, Inc., and at the state level by Keep California Beautiful, Inc. Those organizations provide a loose outline for activities for each affiliate to follow and a multitude of support materials and equipment to facilitate each city's effort. It is the individual affiliate's responsibility to plan one or more events throughout the community to focus on recycling, conservation, clean up and beautification efforts and other community improvement activities. A schedule of Lodi's Great American Clean Up activities is attached.

**FISCAL IMPACT:** Not Applicable

**FUNDING AVAILABLE:** Not Applicable

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Konradt Bartlam  
Community Development Director

Attachments

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

## **2012 SCHEDULE OF KEEP LODI BEAUTIFUL EVENTS**

### **Lodi City Wide Garage Sale – April 6 - 8**

The City Wide Garage Sale is an event for the community to advertise their garage sale for free in the Lodi News Sentinel. The City Wide Garage Sale will run Friday through Sunday.

### **Arbor Day/Great American Clean Up Event – April 7 (10am-2pm) De Benedetti Park**

Arbor Day dedication and tree planting, free seedling giveaway, mistletoe education, Spring clean up materials, and tree & recycling educational materials.

### **Free E/U-waste Event – February 11, April 14, August 11, and November 10.**

The WM Lodi Transfer Station will be hosting Electronic and Universal Waste collection events from 9am – 1pm on each of the listed dates. These events will allow the Lodi community to drop off Electronic waste and U-waste for free. Here is a list of acceptable materials: Radios/Stereos, VCRs, Microwaves, Cell Phones, Telephones, Answering Machines, Batteries (not including car batteries), Televisions, Computer Monitors, Laptops, Computer Processing Units, Printers, Fluorescent Lamps, and Mercury Thermometers.

### **Dollar Diversion Day – April 21 (8am – 3pm)**

Dollar Diversion Day is an updated, revamped version of Dollar Dump Day. Residents of Lodi will be able to bring their “diversion” to the WM Transfer Station for just one dollar; the change is that WM is going to have drop off areas for recyclable goods. WM is planning on having a drop off for wood, metal, concrete, cardboard, and green waste. These changes will divert recyclable material from being dumped in the landfill.

### **Clean Your Files Week – April 23-27**

WM will be collecting office paper at their Buy Back Center to be recycled. Bins for paper collection will be provided to the City of Lodi offices.

### **Residential Curbside Pick Up – April 30 – May 4**

Our curbside clean up will allow the residents of Lodi to place the equivalent of up to six 32-gallon bags or boxes in front of their house for collection. WM will collect the trash on their regular service day. All items must be bagged, bundled, boxed or containerized and must weigh less than 50 pounds each. No household hazardous waste, tires, dirt, sod, rock or concrete.

### **Household Hazardous Waste Collection Event – May 5**

The WM Lodi Transfer Station will be hosting a Household Hazardous Waste collection event 9am – 1pm on this date. Many of the items in your home can be considered hazardous substances because of their chemical nature. Many of these substances can poison, corrode, explode or ignite if improperly handled. It is ILLEGAL to dispose of these household hazardous items in the trash, down storm drains or onto the ground. Examples of household hazardous waste include such items as chlorine bleach, oven cleaner, floor polish, motor oil, pool chemicals.



TM

## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Presentation of Proclamation Proclaiming the Week of April 8-14, 2012, as "National Public Safety Telecommunicators Week"

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Chief of Police

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**RECOMMENDED ACTION:** Presentation of proclamation proclaiming the week of April 8-14, 2012, as "National Public Safety Telecommunicators Week."

**BACKGROUND INFORMATION:** National Public Safety Telecommunicators Week is a national event to recognize the men and women who dispatch our police forces, our ambulances and our firefighters. Although they are not as visible as the men and women who arrive at the scene of emergencies, they are equally important to the safety and level of service provided to our community.

Every day, in all of our communities, dedicated public safety telecommunicators answer calls for assistance. They dispatch our calls for help to police and fire departments, facilitating the execution of emergency rescue vehicles and law-enforcement operations in our city.

We depend upon public safety telecommunicators to notify emergency personnel promptly, clearly, and calmly. We depend on them to keep our loved ones calm and assured in an emergency. We depend on them for guidance and support in our most frantic and panicked moments.

The Lodi Police Department has 15 dispatcher/jailers, three Lead dispatchers and one dispatch supervisor working 12-hour shifts. Lodi is one of the very few departments in the state where dispatchers not only staff the Communications Center for business and 911 calls, they also serve as jailers; booking, processing and providing care for prisoners while they await arraignment in court or transfer to other agencies. Several of the dispatchers are also cross-trained to work special assignments such as court liaison, field evidence technicians and members of the Hostage Negotiations Team.

A representative of the Police Department Communications Center will be present to accept the proclamation.

**FISCAL IMPACT:** None

**FUNDING AVAILABLE:** Not applicable.

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Mark Helms  
Chief of Police

MH/pjt

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager



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## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Presentation of Proclamation Proclaiming the Week of April 15-21, 2012, as "National Volunteers Week"

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Chief of Police

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**RECOMMENDED ACTION:** Presentation of proclamation proclaiming the week of April 15-21, 2012, as "National Volunteers Week."

**BACKGROUND INFORMATION:** National Volunteers Week is a national event to recognize and celebrate the profound impact men and women who volunteer have on their community. One person can make a difference through volunteerism and in 2011 over 2,000 Lodians donated their valuable time to assist various City departments giving over 97,894 hours of service.

At the Public Library volunteers serve as Adult Literacy Services tutors, homework help tutors, Computer Learning Center coaches and instructors, general Library volunteers and teens can serve as liaisons on the Teen Advisory Council. In 2011, 130 volunteers donated 5,448 hours to the library.

The Parks, Recreation & Cultural Services Department has more than 900 volunteers who provide an estimated 44,220 hours of service annually with an estimated fiscal benefit of \$353,760. Volunteers serve with the Boosters of Boys/Girls Sports (BOBS), are coaches, umpires/referees, ushers at Hutchins Street Square, Senior Center volunteers and serve on various commissions.

The Animal Shelter PALS (People Assisting Lodi Shelter) was founded in 2004 to save the lives of abandoned dogs and cats. They assist animal shelter staff with office work, handle animal adoptions and promote animal care and spay/neuter through education. With a total of 75 volunteers PALS donated 15,393 hours to the Police Department with an estimated fiscal benefit of approximately \$329,000.

The Police Cadet Program offers local youths between the ages of 16 and 24 the opportunity to volunteer and gain valuable experience during their high school and college years. Thirteen cadets participate at the present time. Many of these young people end up with a full-time career in law enforcement. Cadets assist the department at special events, DUI checkpoints, and perform clerical duties in the Records Division.

The Police Chaplaincy Program was formed in February of 1994. There are currently six dedicated local clergy providing daily support and emergency response when needed. In 2011, chaplains donated 640 hours to the Police Department with an estimated fiscal benefit of approximately \$13,670.

The Police Partners Program has been in operation for 18 years, providing endless hours of service to the Lodi Police Department. In 2011, Partners donated 27,644 hours to the Police Department with an estimated fiscal benefit of approximately \$590,480. There are currently 106 Partners serving the Police Department.

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

The Police Reserve Program has existed almost as long as the Police Department itself. Many full-time officers began as reserves, and many reserves have also gone on to work for a variety of state and federal agencies. There are currently four reserve officers volunteering their services in 2011, donating 118 hours to the Police Department with an estimated fiscal benefit of approximately \$3,894 annually.

The Public Works Department works with many volunteer groups who donate time to accomplish specific projects. Some of the projects include cleaning the granite surfaces in the Veterans Memorial Plaza; beautifying the corner of Cherokee Lane and Pine Street; repainting the picnic structure at Lodi Lake; alley cleanups; Storm Drain Detectives monitoring water quality; and a garbage pickup at Lodi Lake. In 2011, 150 Public Works volunteers donated 987 hours for an estimated fiscal benefit of over \$37,000.

A representative of the Police Department and Library will be present to accept the proclamation.

**FISCAL IMPACT:** None

**FUNDING AVAILABLE:** Not applicable.

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Mark Helms  
Chief of Police

MH/pjt



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Library Volunteer of the Year Award

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Library Services Director

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**RECOMMENDED ACTION:** Frank Kooger, Vice-President of the Library Board of Trustees, present the 2012 Library Volunteer of the Year Award to JoAnne McLane Rantz.

**BACKGROUND INFORMATION:** In 2001, the Library Board of Trustees established the Bob Hildreth Library Volunteer of the Year Award to be awarded to the library volunteer who contributed significantly to the support of library services for the Lodi Public Library and the residents of Lodi.

The 2012 recipient of this service award is JoAnne McLane Rantz. Since 2001, Ms. Rantz has been an active Director on the Lodi Public Library Foundation Board. JoAnne has a lifelong love of the library and began her volunteer service as a high school student in the old Carnegie Library. During her service on the Board Ms. Rantz served as President from 2009-2011. An avid bridge player, she developed and annually coordinates Bridge and Dessert, a successful fundraising event held at the library every March. Ms. Rantz used her professional skills as a retired editor to publish the Foundation's first newsletter. Fellow Foundation Directors appreciate JoAnne's enthusiasm, sense of humor and style, and the countless hours she spends in support of the Lodi Public Library.

**FISCAL IMPACT:** Not applicable

**FUNDING AVAILABLE:** Not applicable

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Nancy C. Martinez  
Library Services Director

NM/sb

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



TM

## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Receive Register of Claims through March 15, 2012 in the Total Amount of \$2,474,702.70.

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Financial Services Manager

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**RECOMMENDED ACTION:** Receive the attached Register of Claims for \$2,474,702.70.

**BACKGROUND INFORMATION:** Attached is the Register of Claims in the amount of \$2,474,702.70 through 3/15/12. Also attached is Payroll in the amount of \$1,124,037.20.

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** As per attached report.

\_\_\_\_\_  
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



Accounts Payable  
Council Report

Page - 1  
Date - 03/21/12  
Amount

As of Thursday	Fund	Name	Amount
03/15/12	00100	General Fund	881,868.62
	00120	Vehicle Replacement Fund	52,399.41
	00123	Info Systems Replacement Fund	5,287.30
	00160	Electric Utility Fund	74,924.30
	00161	Utility Outlay Reserve Fund	1,810.42
	00164	Public Benefits Fund	28,695.64
	00170	Waste Water Utility Fund	124,402.17
	00171	Waste Wtr Util-Capital Outlay	13,977.00
	00172	Waste Water Capital Reserve	130,196.97
	00175	IMF Storm Facilities	820.06
	00180	Water Utility Fund	32,313.89
	00181	Water Utility-Capital Outlay	53,794.74
	00210	Library Fund	7,039.33
	00234	Local Law Enforce Block Grant	1,822.09
	00235	LPD-Public Safety Prog AB 1913	61.21
	00260	Internal Service/Equip Maint	48,095.13
	00270	Employee Benefits	495,153.52
	00300	General Liabilities	5,299.35
	00310	Worker's Comp Insurance	19,101.52
	00320	Street Fund	68,856.51
	00321	Gas Tax-2105,2106,2107	28,171.65
	00325	Measure K Funds	11,141.58
	00331	Federal - Streets	6,862.23
	00338	IMF-Regional Transportation	35,062.09
	00340	Comm Dev Special Rev Fund	888.90
	00347	Parks, Rec & Cultural Services	47,918.10
	00459	H U D	109,163.41
	00502	L&L Dist Z1-Almond Estates	395.03
	00503	L&L Dist Z2-Century Meadows I	249.50
	00506	L&L Dist Z5-Legacy I,II,Kirst	665.32
	00507	L&L Dist Z6-The Villas	561.37
	00509	L&L Dist Z8-Vintage Oaks	207.91
	01211	Capital Outlay/General Fund	4,358.86
	01250	Dial-a-Ride/Transportation	150,368.11
	01252	Transit-Prop. 1B	791.96
	01410	Expendable Trust	13,097.46
Sum			2,455,822.66
	00184	Water PCE-TCE-Settlements	84.00
	00190	Central Plume	18,796.04
Sum			18,880.04
Total Sum			2,474,702.70

## Council Report for Payroll

Page - 1  
Date - 03/21/12

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	03/18/12	00100	General Fund	671,929.05
		00160	Electric Utility Fund	140,764.79
		00161	Utility Outlay Reserve Fund	8,140.24
		00164	Public Benefits Fund	3,783.78
		00170	Waste Water Utility Fund	96,365.79
		00180	Water Utility Fund	92.34
		00210	Library Fund	28,654.62
		00235	LPD-Public Safety Prog AB 1913	923.20
		00260	Internal Service/Equip Maint	14,935.53
		00321	Gas Tax-2105,2106,2107	27,150.25
		00340	Comm Dev Special Rev Fund	22,583.82
		00345	Community Center	288.80
		00346	Recreation Fund	187.00
		00347	Parks, Rec & Cultural Services	100,844.63
		01250	Dial-a-Ride/Transportation	7,393.36
Pay Period Total:				
Sum				1,124,037.20



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve Minutes  
a) March 20, 2012 (Shirtsleeve Session)  
b) March 21, 2012 (Regular Meeting)  
c) March 27, 2012 (Shirtsleeve Session)

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Approve the following minutes as prepared:  
a) March 20, 2012 (Shirtsleeve Session)  
b) March 21, 2012 (Regular Meeting)  
c) March 27, 2012 (Shirtsleeve Session)

**BACKGROUND INFORMATION:** Attached are copies of the subject minutes marked Exhibit A through C, respectively.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None required.

\_\_\_\_\_  
Randi Johl  
City Clerk

Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 20, 2012**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 20, 2012, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Absent: None

Also Present: City Manager Bartlam, Deputy City Attorney Magdich, and Assistant City Clerk Robison

B. Topic(s)

B-1 Discuss Gang Crime and Introduce the Police Department's Strategy to Reduce Gang Violence (PD)

City Manager Bartlam introduced the subject matter of gang crime and the Police Department's strategy to reduce gang violence.

Police Chief Mark Helms provided a PowerPoint presentation regarding gang crime and the department's strategy to reduce the violence. Specific topics of discussion included gang overview, reported gang incidents for 2010-2012, gang-related assaults with firearms for 2010-2011, gang-related homicides for 2010-2012, effective gang strategy, goals and objectives, message to gang members, present enforcement model and next steps, intervention, prevention, challenges, multi-agency gang task force, California Gang Reduction, Intervention, and Prevention (Cal-GRIP) grant proposal, and Lodi-GRIP.

In response to Council Member Hansen, Sergeant Bill Alexander stated that most firearms and ammunition are acquired in residential burglaries, a majority of which are subsequently used in crimes in the community.

In response to Council Member Hansen, Sgt. Alexander confirmed that the fear of being arrested has diminished because of the impact on county jails and the quick turn-around rate. Previously, an offender could remain in prison up to a year; however, currently there is typically a 90-day cap. Juvenile Hall is not quite as impacted as the county program, but its turn-around time has also accelerated.

In response to Mayor Mounce, Chief Helms stated the Police Department has had great success in working closely with property owners, particularly those with tenants who are known gang members, and many have taken action on their own versus the need to initiate a code enforcement action. Mayor Mounce commended the owners of the apartment complex where the first murder of the year occurred for taking steps to improve that hot spot, which included the construction of fences, the eviction of a majority of the troublesome tenants, and the requirement of a key for entrance onto the property. Chief Helms added that these relationships are important and cited the efforts that were made with gangs at Heritage School. Police Officers held community meetings and talked with parents about ways to protect kids from gang life.

In response to Council Member Hansen, Chief Helms stated officers work with the school district in identifying kids in gangs, the kids are placed on a behavioral contract, and contact with the

parents is made when appropriate.

In response to Council Member Johnson, Chief Helms confirmed that officers from various jurisdictions communicate regularly and there is a network of investigators, including Dale Miller who returned from retirement to assist the department with crime analysis by sharing information with other communities about trends and events in gang activity.

Mayor Mounce believed that Crimestoppers was key; however, many people are too frightened to speak out, possibly because they are elderly or are non-English speaking. She stressed the importance of getting the word out that anonymous reports can be given to Crimestoppers, to which Chief Helms agreed and stated the department is working to develop relationships and trust within the gang community and neighborhoods so people will come forward with information. The Police Department is working to print literature in Spanish, and the gang hotline and the Crimestoppers rewards are also resources.

Council Member Johnson added that citizens hearing this message about anonymous tips, the hotline, and help from the community directly from police officers is highly effective.

In response to Council Member Hansen, Chief Helms stated there are still school resource officers but the Crimestoppers program is not currently being done in the schools.

Mayor Pro Tempore Nakanishi believed that more emphasis should be placed on parent responsibility in teaching kids about gangs.

Council Member Hansen stressed the importance of maintaining the school resource officer program even in light of difficult budget times. He pointed out that the school district pays for two of the officers.

Mayor Mounce referred to an article from the San Joaquin Partnership that reported on an internship program created by the City of Tracy, which works to get young people involved with businesses and helps with potential job placement. This would be a great opportunity for the Chamber of Commerce and would help keep youth out of trouble by exposing them to future opportunities they may not have had otherwise.

Discussion ensued amongst Council Members Johnson and Hansen, Chief Helms, and Mr. Bartlam regarding the potential of the second court in Lodi closing due to budget cuts and how detrimental that would be to the City in terms of cost and inconvenience. Mr. Bartlam assured Council that discussions are routinely occurring with the presiding judge, former Council Member Dave Warner, who fully understands the importance of retaining this court in Lodi. Unfortunately, any cost savings would not be realized by the local courts as it would instead go to the state. Council Member Hansen strongly encouraged his fellow Council Members to discuss this issue with state legislators and aggressively oppose the elimination of the Lodi court.

In response to Council Member Hansen, Captain J. P. Badel confirmed that the City continues to offer bilingual incentive pay; however, the number of officers opting to learn to speak Spanish has greatly decreased.

Council Member Hansen expressed some concern with participating in a task force because many times a stronger effort is devoted to the larger or more problematic communities versus Lodi, to which Chief Helms replied it would be his responsibility to ensure Lodi received its fair share based upon what it puts into the program.

In response to Council Member Johnson, Chief Helms stated that the gang issue in Lodi, as compared to overall criminal activity, is significant because it is occurring with greater frequency,

the level of violence is aggravated, and it is increasingly happening on or near school grounds during the day.

Discussion ensued amongst Council Members Johnson and Hansen, Mayor Mounce, and Chief Helms regarding concentrated efforts in one area of town over another, finding the right balance in addressing community needs, zero tolerance approach, east versus west side divide, past lack of attention on infrastructure, lighting, garbage, and housing on the east side of town, and the need to be proactive instead of reactive.

Mayor Mounce requested an item be brought back for Council consideration regarding the potential creation of a gang alternative program.

In response to Council Member Johnson, Chief Helms confirmed that, should the City be successful in obtaining the Cal-GRIP grant, no new staff would be added, the purpose is to form a street crime team using existing officers pulled out of normal assignments on a part-time basis, and the grant money would be utilized to pay for overtime costs associated with this effort.

Ed Miller questioned what could legal firearm owners do to better prevent firearms from being stolen, to which Chief Helms strongly suggested investing in a safe that cannot be picked up and removed from the premises. Capt. Badel also suggested gun locks.

Doug Cheney spoke in regard to the growing drug problem in Lodi and further suggested that better outreach be done with the Latino and Pakistan communities.

Dave Towne, resident of the east side, expressed appreciation for the efforts of the Lodi Police Department and conveyed frustration with the state and its downsizing of prisons, which is negatively affecting cities.

Adam Cortes spoke in regard to the importance of family, faith, mentors, and the opportunities afforded to people to change their lives. He believed it is crucial to involve the Hispanic community and address the language barrier in order to begin to see change. He experienced the opportunity to change his life firsthand and is willing to help others also realize this chance.

Mayor Mounce expressed hope that Mr. Cortes would become involved should the Council create a gang alternative program.

Tony Amador commended the Chief for creating a balanced approach to this challenge, offered his assistance, and suggested service clubs, community based organizations, and the Latino community be involved in this effort, particularly in the creation of bilingual programs.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:38 a.m.

ATTEST:

Jennifer M. Robison  
Assistant City Clerk

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MARCH 21, 2012**

**C-1    Call to Order / Roll Call**

The City Council Closed Session meeting of March 21, 2012, was called to order by Mayor Mounce at 5:32 p.m.

Present:    Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Absent:    None

Also Present:    City Manager Bartlam, Deputy City Attorney Magdich, and Assistant City Clerk Robison

**C-2    Announcement of Closed Session**

- a)    Conference with Janice Magdich, Deputy City Attorney, and Dean Gualco, Human Resources Manager (Labor Negotiators), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6
- b)    Conference with Janice Magdich, Deputy City Attorney (Labor Negotiator), Regarding Police Mid-Managers, Lodi Police Officers Association, and Lodi Police Dispatchers Association Pursuant to Government Code §54957.6
- c)    Government Code Section 54956.9(b)(c); Exposure to Litigation; Ross Dress for Less v. City of Lodi Regarding Alleged Utility Overcharges
- d)    Prospective Acquisition of Real Property Located at 16 South Cherokee Lane, Lodi, California (APN #043-230-13); the Negotiating Parties are City of Lodi and Geweke Land Development and Marketing, L.P.; Government Code §54956.8

**C-3    Adjourn to Closed Session**

At 5:32 p.m., Mayor Mounce adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:47 p.m.

**C-4    Return to Open Session / Disclosure of Action**

At 7:00 p.m., Mayor Mounce reconvened the City Council meeting, and Deputy City Attorney Magdich disclosed the following actions.

Items C-2 (a), C-2 (b), and C-2 (c) were discussion only with no reportable action.

Item C-2 (d) was discussion and direction given with no reportable action.

**A.    Call to Order / Roll Call**

The Regular City Council meeting of March 21, 2012, was called to order by Mayor Mounce at 7:00 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Absent: None

Also Present: City Manager Bartlam, Deputy City Attorney Magdich, and Assistant City Clerk Robison

B. Presentations

B-1 Arbor Day Proclamation (PRCS)

Mayor Mounce presented a proclamation to Park Superintendent, Steve Dutra, proclaiming Saturday, April 7, 2012, as "Arbor Day" in the City of Lodi.

B-2 National Library Week Proclamation (LIB)

Mayor Mounce presented a proclamation to Nancy Martinez, Library Services Director, proclaiming the week of April 8 - 14, 2012, as "National Library Week" in the City of Lodi.

C. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Hansen made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$5,490,231.88 (FIN)

Claims were approved in the amount of \$5,490,231.88.

C-2 Approve Minutes (CLK)

The minutes of March 6, 2012 (Shirtsleeve Session), March 7, 2012 (Regular Meeting), and March 13, 2012 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Utility Frame and Cover Adjustment Project, Various Locations (PW)

Approved the plans and specifications and authorized advertisement for bids for 2012 Utility Frame and Cover Adjustment Project, Various Locations.

C-4 Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Streets Crack Sealing Contract (PW)

Approved the plans and specifications and authorized advertisement for bids for 2012 Streets Crack Sealing Contract.

C-5 Adopt Resolution Authorizing the City Manager to Execute Professional Services



Agreement with Interwest Consulting Group, of Elk Grove, for Geographical Information System Viewer and Database Migration (\$35,475) (PW)

Adopted Resolution No. 2012-22 authorizing the City Manager to execute professional services agreement with Interwest Consulting Group, of Elk Grove, for Geographical Information System viewer and database migration in the amount of \$35,475.

C-6 Adopt Resolution Approving a Five-Year Copier Lease and Maintenance Agreement and Authorizing the City Manager to Execute the Agreement with Lucas Business Systems for a Staff Copier and Printing Solutions for the Public (LIB)

Adopted Resolution No. 2012-23 approving a five-year copier lease and maintenance agreement and authorizing the City Manager to execute the agreement with Lucas Business Systems for a staff copier and printing solutions for the public.

C-7 Adopt Resolution Approving Memorandums of Understanding Between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO General Services and Maintenance and Operators Units for the Period January 1, 2012 through December 31, 2013 (CM)

Items C-7 and C-8 were pulled by Council Member Hansen for comment.

Council Member Hansen expressed his appreciation to City of Lodi employees for stepping up to the plate and making the necessary concessions in keeping the City's budget balanced.

Mayor Mounce agreed, adding that employees are providing the same level of service to the public despite these reductions, and she expressed her gratitude.

Further, in regard to Item C-8, Mayor Mounce stated she would not support the request as she is opposed to the six-month severance pay clause.

In response to Mayor Pro Tempore Nakanishi, City Manager Bartlam stated it is common that "at-will" employees, which include Council Appointees and Executive Management, have severance clauses in their contracts. The state maximum is 18 months, but he believed 6 months was typical. Mayor Pro Tempore Nakanishi requested further information on standard severance clauses for cities prior to the next time a similar matter is brought before Council.

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2012-25 approving Memorandums of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO General Services and Maintenance and Operators Units for the period January 1, 2012 through December 31, 2013.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: Council Member Johnson

Absent: None

C-8 Adopt Resolution Approving Benefit Modifications for Council Appointees and Executive Management and Authorizing the Execution of Agreements with Council Appointees and Executive Management Incorporating the Benefit Modifications; and Further Authorizing Outside Counsel to Draft Council Appointee (City Attorney) Employment Agreement (CM)

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt

Resolution No. 2012-26 approving benefit modifications for Council Appointees and Executive Management and authorizing the execution of agreements with Council Appointees and Executive Management incorporating the benefit modifications; and further authorizing outside counsel to draft Council Appointee (City Attorney) employment agreement.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, and Mayor Pro Tempore Nakanishi

Noes: Mayor Mounce

Absent: None

C-9 Adopt Resolution Acknowledging the City of Lodi Electric Utility's Obligation Regarding Energy Storage Systems as Defined in Assembly Bill 2514 (EUD)

Adopted Resolution No. 2012-24 acknowledging the City of Lodi Electric Utility's obligation regarding energy storage systems as defined in Assembly Bill 2514.

C-10 Adopt Resolution Setting Late Fees for Delinquent Utility Bills (CM)

This item was pulled by a member of the public.

Ed Miller requested that staff report back on whether or not this amendment regarding late fees for utility bills has reduced the City's cost of monitoring delinquent accounts.

Mayor Mounce indicated she would not support the request as she felt \$25 was excessive and potentially unnecessary if the recently approved shut-off program works as expected, with which Mayor Pro Tempore Nakanishi agreed.

Council Member Hansen stated he would support the recommendation because the cost to follow up on delinquent accounts is significant and this change will attempt to recover some of the loss.

In response to Council Member Johnson, Deputy City Manager Jordan Ayers confirmed the City loses \$545,000 each year, but receives approximately \$900,000 in late fees.

City Manager Bartlam stated late fee revenue covers the cost of dealing with late paying customers, which requires an enormous amount of staff time. He clarified that staff is not recommending a change in the fees amounts; rather, the current fees are being associated with the new time lines.

Council Member Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2012-27 setting late fees for delinquent utility bills.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, and Council Member Katzakian

Noes: Mayor Pro Tempore Nakanishi, and Mayor Mounce

Absent: None

C-11 Set Public Hearing for April 18, 2012, to Consider Adopting Resolution Setting Pre-Approved Engineering News Record Adjustment Index for Wastewater Rates for Residential, Commercial, and Industrial Customers (PW)

Set public hearing for April 18, 2012, to consider adopting resolution setting pre-approved

Engineering News Record adjustment index for wastewater rates for residential, commercial, and industrial customers.

D. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Robin Boriack and her daughters, Tina and Elizabeth, invited Council and the public to participate in the Challenge Failure race event to be held on April 21 at 1310 Thurman Street in Lodi. The event will raise funds for heart failure research and education. Last year's event drew 300 participants and raised \$20,000.

Mayor Mounce applauded Ms. Boriack, who lost her husband two years ago to the disease, for her efforts and stated she would attend the event and welcome participants.

Council Member Johnson commended Ms. Boriack for coordinating this event, including personally fronting the costs associated with the event so that 100 percent of the money raised goes toward this worthy cause.

E. Comments by the City Council Members on Non-Agenda Items

Council Member Hansen commended the Tokay High School students who recently won the regional Science Bowl and will be continuing on to compete in Washington D.C. Further, Council Member Hansen questioned if the mistletoe in the trees along Church Street will be removed and what the plan is for the marked trees along that street.

Public Works Director Wally Sandelin responded that a majority of the Modesto Ash trees will be removed eventually because their age has made them prone to disease and mistletoe and there is no way to save them. The trees will not be removed all at once, they will be replaced, and there is no plan to remove the mistletoe on those trees in the interim.

F. Comments by the City Manager on Non-Agenda Items

City Manager Bartlam wished Mayor Pro Tempore Nakanishi a happy birthday.

G. Public Hearings

G-1 Public Hearing to Approve the Draft 2012/13 Annual Action Plan for the Community Development Block Grant Program (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider approving the Draft 2012/13 Annual Action Plan for the Community Development Block Grant (CDBG) Program.

City Manager Bartlam briefly introduced the subject matter of the Draft 2012/13 Action Plan for the CDBG Program.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the CDBG Program. Specific topics of discussion included 2012/13 Action Plan, allocation and application process, funding availability, scoring matrix, Section 108 loan for Grape Bowl project, and CDBG Action Plan time line.

In response to Council Member Hansen, Mr. Wood stated the federal mandate is to cap the public service funding at 15 percent. If the cap is exceeded, the California Department of Housing and Urban Development would reject the Action Plan and require it be revised. There is no funding limit on bricks and mortar type projects.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam stated that the Americans with Disabilities Act retrofit is for two different City projects. The Section 108 loan authorization is for the Grape Bowl renovation project, which must be included in the Action Plan in order to progress the source of funds. Further, Mr. Wood stated that the Section 108 loan is from investor funds and is paid back using future CDBG funding.

In response to Mayor Mounce, Mr. Wood confirmed that any unused loan money could be utilized toward loan repayment. Mr. Bartlam further responded that, should the CDBG program be terminated, the loan repayments would come from the General Fund.

Mayor Pro Tempore Nakanishi stated he would prefer the loan program be set up for 10-year repayment versus 12 or 15 years since it is unknown how much longer CDBG funding will be available. Mr. Bartlam confirmed that, if the Grape Bowl renovation project does not move forward, neither does the loan request.

Mr. Wood stated that the loan could be paid off early and, if the CDBG program were to draw to an end, the City would likely know a year or so in advance, which could allow for accelerated payments from the CDBG funding to repay the loan.

Mayor Mounce expressed concern with the Section 108 loan payments coming out of the CDBG program as it will reduce the funding amount, which is the only source for upgrades on the east side of town, and without this funding she feared the east side would once again be ignored.

In response to Council Member Hansen, Mr. Wood stated that a 12-year loan would reduce the annual allocation by approximately \$80,000.

In response to Council Member Katzakian, Mr. Bartlam recommended against bypassing the 20 percent program administration cap; otherwise, the General Fund would support the program.

Council Member Johnson reminded Council that it voted previously to set the preferred loan repayment limit at 15 years and he hoped it would not be shortened prematurely.

Council Member Hansen agreed, stating that shortening the loan period would increase the cost and take away from other projects, maintaining the 15-year limit would provide a known loan repayment amount for allocation purposes, and any program increases could be applied toward early repayment.

Mayor Mounce opened the public hearing to receive public comment.

Dale Gillespie, representing the Loel Foundation, requested Council's continued support by approving its request for funding the demolition of the former church facility at 125 South Washington Street for a potential affordable senior housing project.

Council Member Hansen expressed support for the project but added that the option utilizing the parking lot would be his least favorite preference.

Mayor Mounce closed the public hearing after receiving no further public comment.

Council Member Hansen made a motion, second by Mayor Mounce, to adopt Resolution No. 2012-28 approving the Draft 2012/13 Annual Action Plan for the Community Development Block Grant Program.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

G-2 Public Hearing to Consider Adopting Resolution Certifying Mitigated Negative Declaration 11-02; Approve Plans and Specifications and Authorize Advertisement for Bids for Hutchins Street Reconstruction Project (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider adopting resolution certifying Mitigated Negative Declaration 11-02; approving plans and specifications and authorizing advertisement for bids for Hutchins Street Reconstruction Project.

City Manager Bartlam briefly introduced the subject matter of the Hutchins Street Reconstruction Project Negative Declaration and plans and specifications.

Public Works Director Wally Sandelin reported that this project consists of reconstructing Hutchins Street from Pine Street to Lodi Avenue by widening the narrow portions, enhancing street surface quality, providing some two-way and/or longer turn lanes for better traffic flow, and installing new sidewalk and Americans with Disabilities Act improvements. The necessary street easements have been acquired, and staff has determined that no significant impact exists that could not be mitigated to a less than significant level.

In response to Council Member Hansen, Mr. Sandelin stated that the project would not widen the street at the Lodi Avenue and Hutchins Street intersection but it would lengthen the dedicated turn lanes.

Mayor Pro Tempore Nakanishi referenced the Blue Sheet letter received from the property owners at 12 South Hutchins Street expressing concern that this project would decrease their property value and create a safety hazard. Mr. Sandelin replied that staff has explained to them that the two-foot grass strip between the sidewalk and street would be removed and new sidewalk would be installed in the same location allowing for a slightly wider street.

In response to Mayor Mounce, Mr. Bartlam stated that discussions with property owners regarding street easements have been amicable and the residents have been aware of this for quite some time. Mr. Sandelin responded that for the last 15 years the intent has been to reconstruct this section of Hutchins Street because it is so badly deteriorated and has poor traffic flow and for financial reasons the City cannot continue reconstruction beyond Pine Street.

Mayor Mounce opened the public hearing to receive public comment.

Gerald Hanning, resident on Hutchins Street, expressed concern regarding the proposed seven-

and-a-half-foot sidewalks being installed on his block, which would remove two-and-a-half feet from his yard. He believed the standard five-foot sidewalks were sufficient for the entire area.

Mr. Jones, property owner on Hutchins Street, disagreed that discussions were amicable, argued that there is not a severe enough traffic problem to necessitate the street widening, and complained that the larger sidewalks would remove eight to ten feet from his property.

John Kennedy, resident on Hutchins Street, expressed opposition to the larger sidewalks, support for the standard five-foot sidewalks, and disagreement regarding the traffic in that area, adding that he has only seen mild delays during the normal busier times of day.

Mayor Mounce closed the public hearing after receiving no further public comment.

In response to Mayor Pro Tempore Nakanishi, Mr. Sandelin pointed out that Council directed staff in June 2010 to proceed with this project and acquire the necessary remaining street easements. The justification for the larger sidewalk was to connect the commercial area to the wider sidewalk on the Hutchins Street Square block; however, staff could adjust the plan to five-foot sidewalks should Council so desire.

In response to Council Member Johnson, Mr. Sandelin stated that bulb-outs are a proven technique in making pedestrians feel safer crossing the street.

In response to Council Member Hansen, Mr. Sandelin stated that reducing the sidewalk width from seven and a half feet to five feet would not negatively impact the overall goal of improving and widening the street.

Mayor Mounce re-opened the public hearing to take additional comments.

Gerald Hanning expressed support for the five-foot sidewalks.

Shirley Jones, property owner on Hutchins Street, pointed out that most of this area is residential, not commercial, so this affects households more than it does businesses. She and her husband were aware of this plan and have been reimbursed for the easement; however, she was opposed to the larger sidewalk and expressed support for the standard five-foot width.

Mayor Mounce closed the public hearing.

Council Member Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2012-29 certifying Mitigated Negative Declaration 11-02; and approve plans and specifications and authorize advertisement for bids for Hutchins Street Reconstruction Project with the amendment to reduce the sidewalks to the standard five-foot width.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

G-3 Public Hearing to Consider Resolution Approving Contractual Consumer Price Index Based Annual Adjustment to Rates for Solid Waste Collection (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider resolution

approving contractual Consumer Price Index (CPI) based annual adjustment to rates for solid waste collection.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the contractual CPI based annual adjustment to the rates for solid waste collection. Specific topics of discussion included contract language, CPI rate adjustment factor, county gate fees, and example rate changes.

In response to Council Member Hansen, Mr. Sandelin stated that the county gate fees increase annually.

In response to Mayor Mounce, Thom Sanchez, representing Waste Management, stated that it has only happened a couple of times that an increase was not requested with the last time being 2008. Mayor Mounce stated she does not normally support rate increases; however, she appreciated that Waste Management requests minimal, incremental increases.

Mayor Mounce opened and closed the public hearing after receiving no public comments.

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2012-30 approving contractual Consumer Price Index based annual adjustment to rates for solid waste collection.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

H. Communications

H-1 Monthly Protocol Account Report (CLK)

Mayor Mounce made a motion, second by Council Member Hansen, to approve the cumulative Monthly Protocol Account Report through February 29, 2012.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

I. Regular Calendar

I-1 Receive Report on Grape Bowl Stadium Fundraising Plan; Approve Plans and Specifications and Authorize Advertisement for Bids for Scoreboard Installation; and Adopt Resolution: a) Approving Sole Source Purchase of Grape Bowl Scoreboard from Daktronics Company, of Brookings, South Dakota (\$67,613); b) Authorizing the City Manager to Execute a Professional Services Agreement with Siegfried Engineering, Inc., of Stockton, for Design (\$21,700); and c) Appropriating Funds (\$113,500) (PW)

City Manager Rad Bartlam briefly introduced the subject matter of the Grape Bowl stadium fundraising plan and associated actions.

Public Works Director Wally Sandelin acknowledged the work of DellaMonica Snyder Architects for the Grape Bowl diagrams and provided a PowerPoint presentation regarding the Grape Bowl. Specific topics of discussion included various diagrams, requested Council actions, work completed, Phase 3 improvements, costs and funding sources, fundraising plan, schedule, and request for Council direction on funding assumption and staging.

In response to Council Member Hansen, Mr. Sandelin stated that staff costs include staff time, materials, and special studies and work performed by Engineering and Parks and Recreation staff to bring the project forward and is not for overtime.

In response to Council Member Hansen, Mr. Sandelin stated the installed cost of the scoreboard is \$178,000, which includes the steel frame and foundation, with the purchase of the scoreboard alone at \$67,000. It may be necessary for an additional appropriation for installation of the scoreboard at time of contract award. The sound system is part of the scoreboard, and there are advertising panels along the bottom of the scoreboard that could generate revenue for the City.

In response to Council Member Johnson, Mr. Sandelin stated that the \$200,000 in lighting upgrades was sponsored by Community Development Block Grant - Recovery (CDBG-R) and Public Benefit funds and changed out a majority of the lighting fixtures in the stadium, resulting in a brighter lumen level at the playing field with less glare. The earlier Phase 3 concept included area lighting in the plaza and along the ramps; however, it was learned that new fixtures could be installed on the existing lighting towers that would provide the same ground lighting at a much lower cost. In further response, Mr. Sandelin stated he was unsure whether or not Public Benefit funds would be available for this lighting phase.

In response to Council Member Hansen, Mr. Sandelin estimated the cost for lighting at \$55,000.

Mr. Sandelin pointed out that the PowerPoint reflects corrected figures on the costs and funding due to the removal of CDBG 07-03 funding in the amount of \$101,640, which was eliminated by a Board of Supervisors action taken in 2009, resulting in a revised funding shortfall of \$317,240.

In response to Mayor Mounce, Mr. Sandelin stated that the Section 108 loan authorization requires a detailed allocation process, the project must meet certain funding qualifications, and the figures were estimates at this point.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam stated that Council action last October allowed staff to front the \$1 million Waste Management donation for this project from other impact funds, after which the City would collect \$100,000 a year from Waste Management. In further response regarding the \$300,000 project shortfall, Mr. Bartlam stated the figures were estimates, not actual bid prices, and it is possible that final costs could be less than estimated. He assured Council that staff would bring forward a project it could afford, even if that required deleting features from the project. Mayor Pro Tempore Nakanishi requested staff provide Council with information regarding future operating costs and how the City intends to pay for that.

In response to Mayor Mounce, Mr. Bartlam stated the architect's recommendation was the design with the entry way feature; however, staff is not recommending this option unless the City secures a donation for the naming rights. Additionally, there are a variety of design options for the building that will house the concessions, ticket booth, and restrooms, and staff will pursue the most inexpensive option.

Council Member Johnson reported that he has been involved in developing the fundraising concepts, along with an individual who is proficient in this regard, and he believed this proposal was a good start in encouraging donations for naming rights at the Grape Bowl.



In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam stated staff is not requesting approval of the budget at this time. As with any other Public Works project, there are various steps in the process that will come back to Council for approval, including final costs and funding sources. He added that the fundraising plan was not included in the funding summary as they were only options at this time and staff was looking for consensus that the dollar amounts for the naming rights were acceptable in order to begin seeking donations.

In response to Council Member Hansen, Mr. Sandelin stated that Metro PCS requested permission to install equipment on the City's water tower and following negotiations both parties agreed to a \$35,000 public donation to be applied toward communications at the Grape Bowl.

In response to Council Member Hansen, Mr. Bartlam stated the fundraising plan would be a formal guideline for staff to follow in seeking donations, which could be applied toward repaying the City for projects already completed at the Grape Bowl or to advance funds for the next phase.

Mayor Mounce expressed concern that the City has put a considerable amount of money into this project but it has yet to identify future uses for the facility other than sports and school district use. She further stated she was uncomfortable with the Metro PCS donation being applied toward the Grape Bowl instead of future maintenance of the water tower.

In response to Council Member Katzakian, Mr. Bartlam stated that, according to the scoreboard manufacturer, the advertising panels typically lease for \$3,500 a year for a one- to three-year period.

Council Member Johnson pointed out the difficulty in marketing a facility that lacks adequate restroom facilities and concessions and he believed the Grape Bowl would be more marketable and draw additional venues and uses once it was completed.

Jack Fiori commended staff for putting together a quality package; however, he expressed disappointment with the time line, stating this project should have commenced six months ago and construction should begin earlier than March 2013. He stated construction firms were highly competitive at this time and the longer the City waited the more costly this will become. He suggested working around graduation and not canceling it by utilizing the east end of the stadium should construction be on-going during that time.

Randy Snider expressed support for the naming opportunities program and agreed that this project should move forward more quickly than staff is recommending.

In response to Mayor Pro Tempore Nakanishi, Mr. Sandelin stated that conducting graduation during the construction phase would place the City in an awkward liability condition with multiple parties concurrently responsible for the facility and the venue.

Council Member Johnson agreed with the suggestion that the eastern side of the Grape Bowl be utilized for graduation, as well as during football season, adding that parking would be available on the north side or perhaps the Grape Festival would allow parking across the street. He expressed support for authorizing the work as soon as possible.

Mr. Bartlam explained that the issues with starting construction earlier are the risk of inclement weather, interruption of football season and graduation, and potential liability risks with the City, school district, and construction company in the facility at one time and accelerating the construction schedule could result in additional costs.

Deputy City Attorney Magdich also cautioned against the potential liability risk, stating that access

is not the issue but the construction activity occurring at the same time of events is.

In response to Council Member Hansen, Mr. Sandelin stated that designing the building with the concessions, restrooms, and ticket booth is a critical phase that Council may not want to rush and pointed out this contract award to Siegfried Engineering was for civil engineering services only.

Council Member Hansen expressed understanding regarding the potential liability issue but believed it was possible to work around graduation with the use of barriers and security personnel blocking access near the construction, with which Council Member Johnson concurred.

Randy Snider suggested the City proceed with the scoreboard, bid the project this summer, and advance the construction date from March 2013 to November 15, 2012, which would be the end of football season depending upon playoff games. Weather may be a factor but it would depend upon a wet or dry season. Should construction not be completed prior to graduation, the school district could decide if it wants to hold the ceremony at the Grape Bowl or elsewhere.

City Manager Bartlam stated this is feasible assuming Council accepted the risk of potential contract change orders, additional costs, and liability concerns.

Baubie Fox, whose son is graduating next year, stated she was not opposed to graduation being moved elsewhere or adjusted to avoid construction and strongly encouraged Council to move this project forward as quickly as possible.

Council Member Hansen made a motion, second by Council Member Katzakian, to approve the plans and specifications and authorize advertisement for bids for scoreboard installation and adopt Resolution No. 2012-31 a) approving sole source purchase of Grape Bowl scoreboard from Daktronics Company, of Brookings, South Dakota in the amount of \$67,613; b) authorizing the City Manager to execute a professional services agreement with Siegfried Engineering, Inc., of Stockton, for design in the amount of \$21,700; and c) appropriating funds in the amount of \$113,500; and further directing that the construction phase begin on November 15, 2012, instead of March 2013.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Katzakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:05 p.m.

ATTEST:

Jennifer M. Robison  
Assistant City Clerk

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 27, 2012**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 27, 2012, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, and Mayor Mounce

Absent: Mayor Pro Tempore Nakanishi

Also Present: City Manager Bartlam, Deputy City Attorney Magdich, and City Clerk Johl

B. Topic(s)

B-1 Development Impact Mitigation Fee Program Update (PW)

City Manager Bartlam provided a brief introduction to the subject matter of the impact mitigation fee update.

Public Works Director Wally Sandelin, along with Consultants Alison Boule and Victor Irzyk, provided a PowerPoint presentation regarding the impact mitigation fee update. Specific topics of discussion included project progress, fee assumptions and methodology, five-year plan, project costs and impact fees for Police, Fire, general facilities, transportation, and parks, Art in Public Places (AiPP) fee calculation, wastewater fee assumptions and impact fees, surface water allocation to new development, and the water impact fee. Electric Utility Director Elizabeth Kirkley discussed the Electric Utility project costs, map, and impact fee.

In response to Council Member Hansen, Mr. Sandelin stated because forecasting 20 years out is challenging the proposal includes a 5- and 20-year blend whereby the program is visited every 5 years starting in 2020.

In response to Council Member Johnson, Mr. Sandelin stated the development community has agreed upon the density amount.

In response to Council Member Hansen, Mr. Sandelin stated that, based on the yellow shading in the map, the entire area within the City limits plus the area west of Lower Sacramento Road is covered by the program.

In response to Council Member Hansen, Mr. Irzyk stated \$385 is the proposed fee for Fire.

In response to Council Member Johnson, Mr. Irzyk stated the 470% change in industrial is based on current assumptions that are not considered in the existing fee schedule. Mr. Irzyk stated the original fees could have been reduced for economic development purposes in the past.

In response to Council Member Hansen, Mr. Sandelin stated staff will forward to the City Council the background information and assumptions used to calculate the industrial number as requested.

In response to Council Member Johnson, Mr. Sandelin stated the 100% future allocation for the Library is based on the 6,000 square foot figure suggested in the General Plan.

In response to Council Member Hansen, Mr. Sandelin stated the median construction on West Lane ties into new development because it is south of Harney Lane to the southern City boundaries.

In response to Mayor Mounce, Ms. Boule reviewed the full funding of the grade separation project which includes funds from Measure K, Union Pacific, Regional Transportation Impact Fee, and other regional funds.

In response to Council Member Johnson, Mr. Sandelin stated the Harney Lane and Highway 99 interchange improvements were already addressed through the Reynolds Ranch project.

In response to Council Member Hansen, Mr. Sandelin stated the City will be receiving the funds from the Public Utilities Commission (PUC) within the next two cycles for the grade separation.

In response to Mayor Mounce, Mr. Bartlam stated if there is money in the fee program it must be bid as a public project versus the ability to reduce the overall cost by having a developer do the project directly. Mr. Sandelin stated they must still comply with the relevant building code requirements to ensure quality and produce a two-year bonded warranty.

In response to Council Member Johnson, Mr. Bartlam stated sometimes it is beneficial financially and time wise for both the City and the developer if there is outside funding available for a project.

In response to Council Member Hansen, Ms. Boule stated the Lodi Lake calculation is based on an improvement of the existing footprint and is not an expansion although the west end of the lake would be new park space.

In response to Council Member Johnson, Mr. Sandelin confirmed that the \$75,399 amount for AiPP is 50% of residents times the amount of staff.

In response to Mayor Mounce, Mr. Bartlam confirmed that the new methodology for AiPP is more consistent and legally defensible in comparison to the current 2% formula.

In response to Mayor Mounce, Mr. Sandelin confirmed there is an overall fee decrease of 30% for the proposed wastewater impact fee.

In response to Council Member Johnson, Mr. Sandelin stated the banking number assumes 40 years of banking for surface water allocation purposes.

In response to Mayor Mounce, Mr. Sandelin stated staff will provide to the City Council comparison information associated with the proposed numbers and the previously considered formula of 2,000 acre feet for existing residents and 4,000 acre feet for new residents as requested.

In response to Council Member Hansen, Ms. Kirkley stated the Electric Utility impact fee relates to infrastructure, equipment, and labor for capacity purposes and is not connected to the cost of electricity. Ms. Kirkley stated the behind meter project affects all rate payers and is not included in the impact fee program.

In response to Mayor Mounce, Ms. Kirkley stated she is not aware of the \$165,000 maximum charge set forth by ordinance in 2007 but she will look into it. Mr. Sandelin confirmed that the existing and proposed assumptions for Electric Utility yield the same approximate figure of \$7 million.

In response to Council Member Johnson, Ms. Kirkley stated the PG&E project at Victor Road is not considered in the program because it would affect all ratepayers and not only new development.

In response to Mayor Mounce, Mr. Bartlam stated the Costco and Blue Shield payments do apply to the fee calculations to some degree but some of what was paid covered their own infrastructure needs.

In response to Mayor Mounce, Ms. Kirkley stated the majority of the improvements along Cherokee Lane are related to expanding capacity of the existing system and not necessarily tied to industrial growth.

John Beckman, representing the Building Industry Association, spoke in regard to his concerns about building fees going up and remaining too high.

Dennis Bennett spoke in regard to his concerns about the high bottom line for fees, the growing trend to lower or waive fees, and establishing a phased approach for adopted fees. In response to Council Member Hansen, Mr. Bennett stated in 2002 the fee average was \$40,000 at \$150 per foot and now it is in the \$100 per foot range for the average home.

In response to Council Member Johnson, Mr. Beckman stated the Building Industry Association is having ongoing meetings with the San Joaquin Council of Governments and other cities in an attempt to reduce or waive fees and the school district has already reduced its fee from \$4 to \$3.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:20 a.m.

ATTEST:

Randi Johl  
City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve Plans and Specifications and Authorize Advertisement for Bids for Well 6R Granular Activated Carbon Treatment System

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Approve plans and specifications and authorize advertisement for bids for Well 6R granular activated carbon treatment system.

**BACKGROUND INFORMATION:** This project consists of furnishing and installing a granular activated carbon (GAC) treatment system for Well 6R, as shown on the plans and specifications for the project.

Well 6R was constructed in 1985 and is one of the City's higher-producing municipal water wells. Located on Mission Street at the northerly side of Blakely Park, the well produces approximately 1,300 gallons per minute (gpm) when operational.

In accordance with State requirements, the City monitors Dibromochloropropane (DBCP) levels for all the City's water wells. Due to DBCP concentrations exceeding the maximum contaminated level of 0.2 parts per billion, the well was taken out of service on February 7, 2011.

The City currently has GAC treatment systems on six water wells and intends to construct the same type of system on Well 6R adjacent to the Lodi Boys and Girls Club building (a short distance away from the well site) to minimize visual impacts to the neighborhood, as shown on Exhibit A. The Boys and Girls Club Board of Directors does not object to this location. On March 7, 2012, notices regarding the project were sent to property owners and residents adjacent to the site, along Washington Street and Mission Street (Exhibit B).

In 1996, the City executed a DBCP settlement agreement with Shell Oil, Dow Chemical and Occidental Chemical companies (Defendants). Under the terms of the settlement, the City will be reimbursed up to \$671,000 (using the latest available inflationary index) by the Defendants for the design and construction of the GAC treatment system for this well site. The total project cost, including engineering and inspection, is anticipated to be less than \$900,000.

Well 6R is critical to supply water in this area of the City during peak summer demand and to provide adequate fire flow; therefore, staff is recommending the installation the GAC treatment system at this site to continue utilizing the production capacity of Well 6R.

The plans and specifications are on file in the Public Works Department. The planned bid opening date is May 16, 2012.

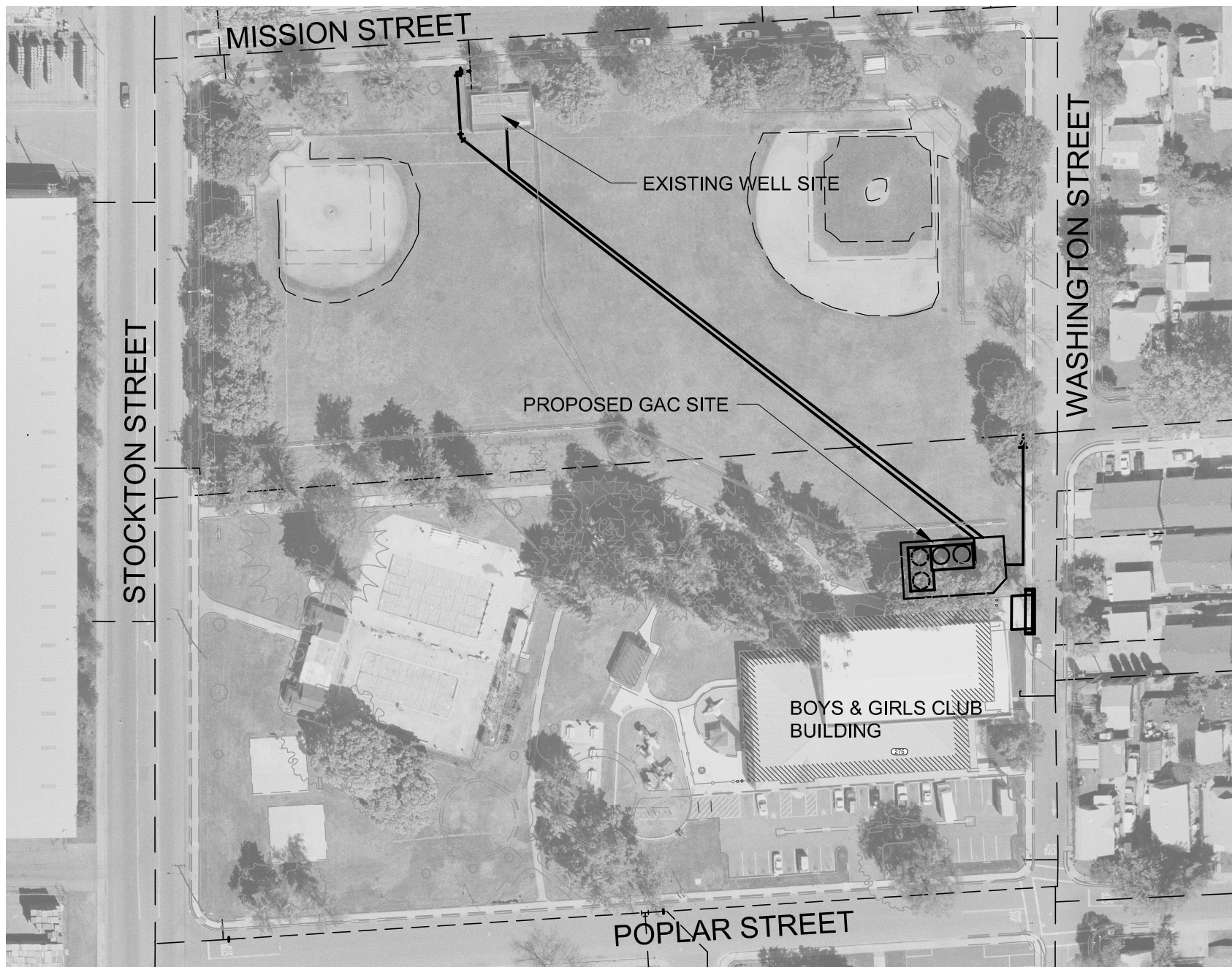
**FISCAL IMPACT:** Annual operation and maintenance costs for the water utility will increase as a result of this project; however, these costs will be reimbursed through the DBCP settlement.

**FUNDING AVAILABLE:** Funding for this project will come from the Water Capital Outlay Fund (181).

\_\_\_\_\_  
F. Wally Sandelin  
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer  
Attachments  
cc: Deputy Public Works Director

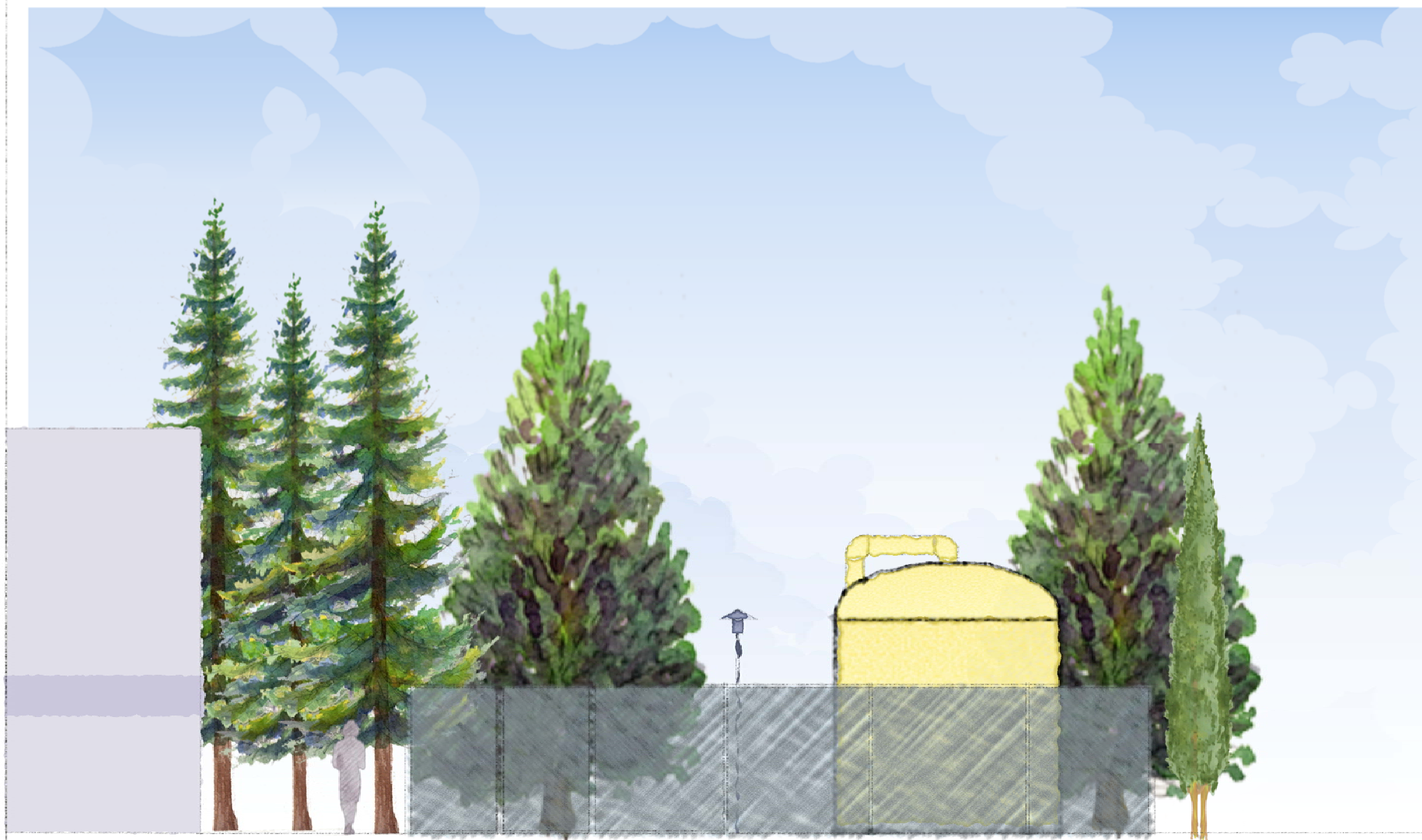
**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



1" = 100'

EXHIBIT A





WELL 6R GAC FILTER  
ELEVATION VIEW FROM WASHINGTON STREET

1" = 80'





## CITY COUNCIL

JOANNE MOUNCE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
PHIL KATZAKIAN

## CITY OF LODI

PUBLIC WORKS DEPARTMENT  
CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
TELEPHONE (209) 333-6706 / FAX (209) 333-6710  
EMAIL [pwdept@lodi.gov](mailto:pwdept@lodi.gov)  
<http://www.lodi.gov>

KONRADT BARTLAM  
City Manager

RANDI JOHL  
City Clerk

D. STEPHEN SCHWABAUER  
City Attorney

F. WALLY SANDELIN  
Public Works Director

March 7, 2012

Property Owner/Resident

SUBJECT: Well 6R Granular Activated Carbon Filters (Blakely Park)

This letter is to inform you that the City is proposing to install granular activated carbon (GAC) filters at the Blakely Park site, as shown on the enclosed site map. These filters are needed to remove Dibromochloropropane (DBCP) from the drinking water produced from the existing Well 6R site.

DBCP was used extensively in the past to kill nematodes in vineyards. It was banned in California in 1997, but trace amounts are still present in groundwater. The City has actively monitored the DBCP levels in all City wells to ensure DBCP concentrations remain below the maximum contamination level of 0.2 parts per billion. Well 6R has been out of production since exceeding this level last year. This well was constructed in 1985 and is one of the City's highest-producing water wells. Well 6R is critical to supply water in this area of the City during peak summer demand and to provide adequate fire protection.

The City is proposing to install the GAC filter system at the Blakely Park site so that the well can be returned to service. The construction of the filter system is expected to occur this summer.

Enclosed is a rendering of the GAC filter system proposed for construction. Please feel free to contact Lyman Chang, Senior Civil Engineer, at (209) 333-6800, extension 2665, if you have any questions or comments.

Sincerely,



Charles E. Swimley, Jr.  
Deputy Public Works Director/City Engineer

Enclosures  
CES/LC/pmf

cc: Deputy Public Works Director Swimley  
Senior Civil Engineer Chang



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Disabled Access Improvements, Various Locations

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Approve plans and specifications and authorize advertisement for bids for 2012 disabled access improvements, various locations.

**BACKGROUND INFORMATION:** This project is part of the City of Lodi's 2011/12 Community Development Block Grant (CDBG) allocation.

The work consists of installing wheelchair ramps at the southwest corner of Turner Road and Pleasant Avenue, all four curb returns at Pleasant Avenue and Eureka Avenue, southeast corner of Washington Street and Concord Street, and the northeast and northwest corners of Washington Street and Poplar Street. This project also installs an ADA-compliant concrete alley approach on Oak Street at the alley east of Main Street and new sidewalk on Washington Street facing the Lodi Boys & Girls Club. The locations are shown on the attached Exhibit A.

Plans and specifications are on file in the Public Works Department. The planned bid opening date is April 25, 2012.

**FISCAL IMPACT:** There could be a slight increase in long-term maintenance costs associated with the additional sidewalk on Washington Street.

**FUNDING AVAILABLE:** This project will be funded by 2011/12 Community Development Block Grant (CDBG) funds.

\_\_\_\_\_  
F. Wally Sandelin  
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer  
FWS/LC/pmf  
Attachment  
cc: Joseph Wood, Neighborhood Services Manager  
Senior Civil Engineer, Chang

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager





# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Approve Plans and Specifications and Authorize Advertisement for Bids for 2012 Alley Reconstruction Project

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Approve plans and specifications and authorize advertisement for bids for 2012 alley reconstruction project.

**BACKGROUND INFORMATION:** This project consists of the reconstruction of the alley north of Pine Street, from Stockton Street to Washington Street, and the alley north of Flora Street, from Garfield Street to Cherokee Lane, with 427 tons of asphalt concrete and the installation of 915 lineal feet of pervious concrete alley gutter. The locations of the alleys to be reconstructed are provided in Exhibit A.

These alleys were selected based on field review of the eastside alleys. They appear to have the most severe drainage and pot hole problems from the site survey. The City will be using Community Development Block Grant (CDBG) funds to reconstruct the alleys with new asphalt concrete pavement and pervious concrete alley gutter. The pervious alley concrete gutter was used in previous alley reconstruction projects and has proven to enhance the alley storm water drainage.

The plans and specifications are on file in the Public Works Department. The planned bid opening date is May 16, 2012. The project estimate is \$180,000.

**FISCAL IMPACT:** The project will reduce maintenance costs in the reconstructed alleys.

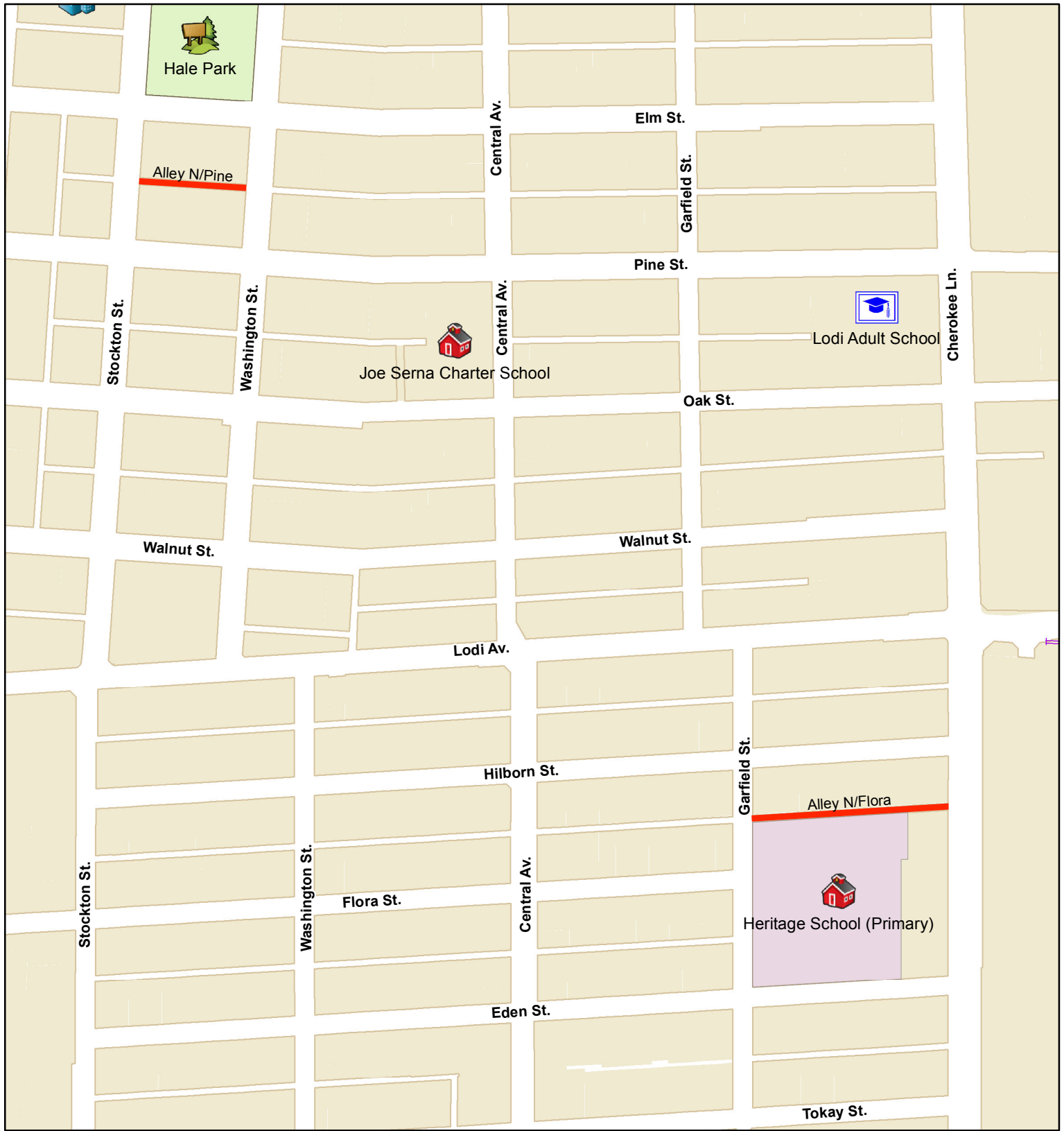
**FUNDING AVAILABLE:** This project will be funded by 2010/11 and 2011/12 Community Development Block Grant (CDGB) funds.

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F. Wally Sandelin  
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer  
FWS/LC/pmf  
Attachment  
cc: Neighborhood Services Manager  
Senior Civil Engineer Chang

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



**Legend**

 Alley to be Reconstructed



**EXHIBIT A**  
**2012 Alley Reconstruction**  
**Location Map**



1 in = 400 ft



## CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Accept Improvements Under Contract for Central Plume PCE/TCE Remedial Measures Project and Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement and Extensions with Diede Construction, Inc., of Woodbridge, for Operations and Maintenance Services and Appropriating Funds (\$558,870)

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Accept improvements under contract for Central Plume PCE/TCE remedial measures project and adopt resolution authorizing City Manager to execute professional services agreement and extensions with Diede Construction, Inc., of Woodbridge, for operations and maintenance services, and appropriating funds in the amount of \$558,870.

**BACKGROUND INFORMATION:** The project was awarded to Diede Construction, Inc., of Woodbridge, in the amount of \$1,758,672.42, on March 7, 2010. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

This project consisted of design, construction, one year operation and maintenance of a groundwater extraction and treatment system and a soil vapor extraction and treatment system. The Central Plume Source Area is bounded by Pine Street, Oak Street, Church Street and Pleasant Avenue. The project included two groundwater extraction wells, nine soil vapor extraction well sites (18 wells), three monitoring well sites (three wells each), an approximately 800-square-foot treatment facility, electrical and control wiring, associated utility piping and site improvements.

The contract was substantially completed by the contract completion date of May 27, 2011. The facility has been operating since April 2011. The delay in final acceptance is related to additional work required by the Central Valley Regional Water Quality Control Board (Regional Board), including adding a third groundwater extraction well. The final contract price was \$1,794,205.34. The difference between the original contract amount and the final contract price is due to five contract change orders, as shown below.

Change Order No. 1 included increasing the size of the treatment facility and revised vapor well drilling details (\$26,055).

Change Order No. 2 included removing and replacing five driveways, including two alley approaches, impacted by the project area to meet current ADA requirements (\$41,579.13).

Change Order No. 3 included costs associated with decommissioning the Guild Cleaners treatment facility and repaving the entire alley between Church Street and Pleasant Avenue. This item was pre-approved by City Council on April 20, 2011, per Resolution No. 2011-56 (\$186,260).

APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

Change Order No. 4 included the installation of groundwater extraction Well No. EW-06, as required by the Regional Board (\$74,890).

Change Order No. 5 included the additional water sampling and testing for extraction Well No. EW-06, soil vapor system optimization testing, and contractor pollution liability insurance costs caused by the delay between the substantial completion date and the actual contract acceptance date (\$13,162).

To date, 1,650 pounds of PCE/TCE has been removed by this system. Combined with the system that operated for years at Guild Cleaners, the total removal is approximately 8,000 pounds.

Council is also being requested to authorize a professional services agreement with Diede Construction for the ongoing operations and maintenance services for the treatment facility. The original bid documents required the contractor to provide a proposal for monthly costs for Year 2 for maintenance, operations, testing and reporting. This price shall be used should the City wish to continue using the contract services beyond the current contract duration. Staff recommends Council exercise this option. The total professional service agreement is for \$558,870. However, the 12-month operation, maintenance, sampling and reporting costs are \$48,960. The remainder of the \$558,870 is for the replacement of Granular Activated Carbon (GAC) and water waste disposal. These materials are paid on an as-used basis only. Staff also recommends that the City Manager be authorized to negotiate and execute annual extensions of the professional services agreement.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

**FISCAL IMPACT:** Capital and Operations funding for these facilities was anticipated in the current water rate.

**FUNDING AVAILABLE:** Requested Appropriation:  
Central Plume Settlement Funds (190) \$558,870

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Jordan Ayers  
Deputy City Manager/Internal Services Director

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F. Wally Sandelin  
Public Works Director



## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **ARTICLE 1 PARTIES AND PURPOSE**

#### **Section 1.1 Parties**

THIS AGREEMENT is entered into on April 5, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and DIEDE CONSTRUCTION, INC. (hereinafter "CONTRACTOR").

#### **Section 1.2 Purpose**

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for Year Two operation, maintenance, sampling and reporting services, as submitted with the Central Plume Interim Remedial Measures Improvement Project bid submitted on February 23, 2010 (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

### **ARTICLE 2 SCOPE OF SERVICES**

#### **Section 2.1 Scope of Services**

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

#### **Section 2.2 Time For Commencement and Completion of Work**

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames.



The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

**Section 2.3 Meetings**

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

**Section 2.4 Staffing**

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

**Section 2.5 Subcontracts**

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

**Section 2.6 Term**

The term of this Agreement commences on April 5, 2012 and terminates upon the completion of the Scope of Services or on April 4, 2013, whichever occurs first.

## **ARTICLE 3** **COMPENSATION**

### **Section 3.1    Compensation**

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

### **Section 3.2    Method of Payment**

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

### **Section 3.3    Costs**

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

### **Section 3.4    Auditing**

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

**ARTICLE 4**  
**MISCELLANEOUS PROVISIONS**

**Section 4.1    Nondiscrimination**

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

**Section 4.2    ADA Compliance**

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

**Section 4.3    Indemnification and Responsibility for Damage**

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

**Section 4.4    No Personal Liability**

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

**Section 4.5    Responsibility of CITY**

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

**Section 4.6    Insurance Requirements for CONTRACTOR**

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

**Section 4.7 Successors and Assigns**

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

**Section 4.8 Notices**

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY:                      City of Lodi  
                                     221 West Pine Street  
                                     P.O. Box 3006  
                                     Lodi, CA 95241-1910  
                                     Attn: F. Wally Sandelin

To CONTRACTOR:        Diede Construction, Inc.  
                                     P.O. Box 1007  
                                     Woodbridge, CA 95259  
                                     Attn: Paul Bickford

**Section 4.9 Cooperation of CITY**

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

**Section 4.10 CONTRACTOR is Not an Employee of CITY**

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

**Section 4.11 Termination**

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase.

Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

**Section 4.12 Confidentiality**

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

**Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees**

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

**Section 4.14 City Business License Requirement**

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

**Section 4.15 Captions**

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

**Section 4.16 Integration and Modification**

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

**Section 4.17 Contract Terms Prevail**

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

**Section 4.18 Severability**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**Section 4.19 Ownership of Documents**

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

**Section 4.20 Authority**

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

**Section 4.21 Federal Transit Funding Conditions**

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit        apply to this contract. In the event of a conflict between the terms of this contract or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

**IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.**

CITY OF LODI, a municipal corporation

ATTEST:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

\_\_\_\_\_  
KONRADT BARTLAM, City Manager

APPROVED AS TO FORM:  
D. STEPHEN SCHWABAUER, City Attorney  
JANICE D. MAGDICH, Deputy City Attorney

CONTRACTOR: Diede Construction

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Attachments:**

**Exhibit A – Scope of Services**

**Exhibit B – Fee Proposal**

**Exhibit C – Insurance Requirements**

**Funding Source:** 190121.7720  
**(Business Unit & Account No.)**

Doc ID: PSA Central Plume Year 2 O&M 2012

CA:rev.01.2012

**Permits, Certificates, Laws and Ordinances** The Contractor and all subcontractors shall have a valid State Contractor's license issued by the State of California and at their own expense procure all permits, certificates and licenses required of them for the execution of their work. They shall comply with all federal, state or local laws, agencies, ordinances or rules and regulations relating to the performance of the work. Reference is made to the State of California Department of Water Resources Bulletins No. 74 and 74-5.

The Contractor shall be responsible for furnishing all tests, permits and filing of the logs as required by law except as noted in these Special Provisions, including San Joaquin County Public Health Well Drilling and Pump Installation Permit. **The Contractor is required to submit Start-up, Operations, Maintenance and Testing plans to the State Regional Water Quality Control Board for approval and compliance.**

**The contractor will be liable for all violations, fines and penalties related to the construction and operation of the treatment facility.**

**Start Up and Testing** The contractor shall coordinate and make available the appropriate staff, craftsmen, tradesmen, technicians, and manufacturer representatives to participate in the completed project start up. The purpose is to operate pumps, valves, switches and other equipment; calibrate; correct problems; make repairs; replace faulty equipment; and otherwise address workmanship issues prior to acceptance by the City. The Contractor shall also provide sufficient field water and soil vapor PCE/TCE testing and analysis equipment to verify that design removal is being achieved and approved by controlling agencies.

**Payment** – The lump sum price paid for the “Start up and Testing” shall include full compensation for furnishing all labor, materials, tools and equipment to complete the work of start up and testing, all as show in the plans and specifications and in Section 6-145 “Start Up and Testing” and no additional compensation will be allowed.

### **Health and Safety**

Contractor shall submit a site safety plan to the City a minimum of 12 working days prior to beginning work. Site safety plan shall be in accordance with U.S. Department of Labor, 29 CFR 1910 and CALOSHA and include job safety analysis specific to the general tasks to be performed at the site. Contractor shall supply evidence of 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training of all field personnel and subcontracted personnel prior to start of work. The contractor is solely responsible for project safety.

Contractor and their subcontractors shall comply at all times with the health and safety plan provided by Contractor. Contractor must document to the Engineer that all workers have 40 hours of OSHA training per 40 CFR 120. Contractor must provide personal protective equipment for their personnel and subcontractor personnel at all times. Contractor shall operate in a safe and controlled manner at all times.

Contractor shall conduct and document a thorough safety tailgate meeting as required. The tailgate meetings shall include discussions of client safety expectations. All subcontractors shall be given a documented safety tailgate meeting prior to start of work. Contractor shall provide for and ensure the safety programs, behavior and compliance with these notes of all subcontractors. Contractor shall provide direct oversight of all subcontractors used on this



project. If translation is required for any employee to understand the site safety indoctrination, that translation shall be provided by Contractor.

Contractor shall furnish and make available at all times: fire extinguisher, eyewash station, first aid kit, stop/slow handheld traffic sign, an adequate number of 4-foot high traffic delineators and snow fencing, a portable self-contained outhouse, hearing protection, eye protection, and adequate drinking water.

Contractor and subcontractor dress code on the work site shall include at a minimum: safety vest with reflective stripes, hardhat, safety glasses with sideshields, appropriate gloves, long sleeve shirt, pants, hearing protection, and steel toe boots, or other equipment as required by regulations.

All mechanical equipment used onsite shall be inspected and documented at the start of each day. Equipment maintenance records shall be provided to the Engineer with all mechanical equipment used onsite. Any equipment that is worn or otherwise unsafe shall not be used and shall be repaired or replaced at Contractor's expense. Any employee of Contractor that uses a forklift shall provide evidence of forklift certification and training to the Engineer prior to use. Spotters shall be used for any equipment operating in reverse on the site. Seatbelts shall be worn at all times while operating any mechanical equipment on or off the site. Cell phone use is prohibited while operating any mechanical equipment at the site.

A pre-job conference call will be held prior to the start of work and shall be attended by a person in responsible charge of this project representing Contractor and a representative from all subcontractors.

Only appropriate clevis shall be used in lifting applications. Loads shall be secured using a threaded U-bolt.

Contractor shall use proper and safe lifting methods to include a 50-pound limit per person. Awkward items weighing more than 30 pounds shall be lifted by more than one person.

All excavations within 5 feet lateral distance of a marked utility shall be hand-dug using only hand tools to break ground, move soil or debris, or otherwise disturb the excavation from top to bottom.

**All below grade existing utilities shall be located and confirmed using hydro-excavation. Complete plan must be submitted and approved by the City prior to the start of work.**

Contractor shall provide one person with responsible charge and sufficient authority to enforce health and safety and adherence to these notes at all times that work is in progress.

Failure to comply with any of the above-stated is reason for jobsite shutdown by the Engineer or the City at Contractor's expense to repair the situation.

All construction areas shall be clearly marked with barricades, cones, plates, or other approved safety markers to restrict access and provide a safe work environment for the Contractor and station customers.

All site workers shall have loss prevention system (LPS) training and certification.

**Payment** The lump sum price paid for Health and Safety shall include all labor, materials, tools and equipment to submit a site safety plan and compliance both on and off the job site and no additional compensation will be allowed.

### **Start Up and Maintenance and Operations Manual**

As part of the work required under this item, the Contractor shall prepare a draft and final manual. The draft manual shall be completed prior to start up and in sufficient time to permit 14 day review by the City. The final manual shall incorporate all review comments from the City and the design team. An addendum to the final manual will include input from operators during the first year of operation. **Manual must meet Regional Water Quality Control Board requirement and approvals.**

The Startup and Operations and Maintenance Manual shall include written procedures, set points, configuration parameters, instrument calibration ranges, and a detailed troubleshooting guide for all the equipment provided by the Contractor. A maintenance and calibration schedule for all equipment should also be included. The manual shall also include forms to be completed by the operator monthly, detailing the operation of the system and its components with regard to number of wells in operation, number of days of operation, quantity of groundwater or vapor extracted, and average groundwater or vapor extraction rate.

The Startup and Operations and Maintenance Manual (O&M) shall be organized as follows:

1. Introduction - A description of the remediation site, extent and type of contamination issues, short history of decision making that lead to the remediation effort, identification of lead agency, approved remediation system description, and a description of the O&M activities.
2. Site Components - A listing of each component by name and number and a detailed description of how they function and will be maintained.
3. Treatment System Procedures - This section will detail start up and shut down procedures for the operator, and monitoring and sampling procedures.
4. Permits – This section will include a detailed description of the governing permits of the remediation and a listing of who is responsible for each aspect of compliance with the permit.
5. Performance Evaluation – This section details the reporting requirements for the operation and status of the remediation system.
6. Corrective Measures – This section will detail how the operator shall respond to routine and unexpected maintenance events, as well as unexpected changes in contaminant levels. A listing of alarm situations and corrective measures shall be detailed herein. A statement indicating what the response and repair time will be for various items of work shall also be included.
7. Detailed description of sampling procedures, including containerization, sampling, chain of custody, QA/QC details, disposal of samples, and forms for transmittal of results to the engineer.
8. Site safety plan and records indicating that employees and/or subcontractors have been trained in accordance with the plan.
9. References – A listing of governing agencies, work plans, action plans, and clean up orders shall be detailed here.
10. Plans and specifications for the construction of the Remediation System.
11. List of names and phone numbers of personnel critical to the maintenance and operation of the remediation system.

The lump sum contract price paid for the bid item "Start up and Maintenance and Operations Manual" shall include all labor, materials, tools, and equipment to complete the work to the satisfaction of the City and other agencies governing the cleanup operation, and no additional compensation shall be allowed.

### **Operations Project Management**

This item shall include all appropriate labor, materials, tools, and equipment to provide project execution and oversight to the Maintenance and Operation work, with special consideration for health and safety issues. The work shall also include attention to and response to questions from the City, the public, and controlling and regulatory agencies. The bidder shall review and refer to the EPA document "Elements of Effective Management of Operation of Pump and Treat Systems" <http://www.clu.in.org> for details on the following topics that shall be included in project management:

- Prepare reports and recommend changes to system
- System goals and exit strategy
- Evaluate performance and effectiveness of system
- Evaluate cost effectiveness
- Compliance with policies and regulations
- Interpretation of process monitoring data
- Verification that discharge standards are being achieved
- Compare design parameters with actual parameters
- Collection and reporting of accurate and reliable data
- Review and record changes to process monitoring

The (per month) fee for project management shall be based upon providing the above mentioned tasks as required, and no additional compensation will be allowed.

**Contractor shall include a proposed monthly cost for year 2 for maintenance, operations, testing and reporting. This price shall be used should the City wish to continue using the contract services beyond the current contract duration. Amount is NOT to be included in the guaranteed maximum price.**

**Note: The requirements of Sections 147 and 148 apply to the entire treatment facility: Ground water and soil vapor systems.**

### **Groundwater Sampling and Analysis**

The contractor shall provide all labor, materials, tools and equipment to gather, package, transport, analyze, properly dispose of, and provide report of results for each groundwater sample. The samples shall be tested as per method 8260B at an approved laboratory. Typically a grouping of:

- 6 samples/month (year 1)
- 4 samples/month (years 2 and 3)
- 2 samples/month (years 4 and 5)

will be taken during a M&O visit. The number of samples is an estimate and may change as required by the engineer or other controlling agencies. Whether the sample gathering coincides with M&O visits or is accomplished by the same personnel is up to the economies of

the Contractor. The contract price paid per sample shall include full compensation for doing all the work defined above and no additional compensation will be allowed.

### **Provide Analytical Results and Field Measurements to Engineer**

As detailed in the M&O Manuals for either the Ground Water Extraction (GWE) or the Soil Vapor Extraction (SVE) units, the Contractor shall provide field data and measurements, and sample analysis results to the City's consulting engineer, Treadwell and Rollo. At this point, the information may be transmitted by hard copy or electronically; no specialized computer programs will be required to process and deliver the results.

The contract price paid for each (monthly) transmittal of analytical results and field measurements shall include full compensation for providing all labor, materials, tools and equipment and no additional compensation will be allowed.

### **Utilities – Information Only**

Electrical, sewer, storm drain, natural gas, telephone and other related monthly utility charges that may be applicable to the operation of the GWE and SVE units will be paid directly by the City.

### **1 ½ Horsepower Submersible Pump System / 5 Horsepower Submersible Pump System**

The contractor shall provide a price for replacing (in kind) each of the complete submersible pumping units, at the end of their useful life. These are continuous duty units, where their service life is estimated to be between 5,000 and 10,000 hours (1 to 2 years). The price shall include all labor, materials, tools, equipment, permits, pump, motor, drop pipe, drop wire, and control box to remove and replace each of the submersible pump systems and no additional compensation will be allowed.

### **Granular Activated Carbon (GAC) (Liquid Phase) / Granular Activated Carbon (Vapor Phase)**

The Contractor shall provide a price per pound for GAC for both the liquid phase and vapor phase treatment units. Typically, the liquid phase change out of spent carbon will be for one (1) 3,000 pound vessel and the vapor phase will be for one (1) 8,000 pound vessel at a time. Several "change outs" may be required in the first year.

The contract price paid per pound for GAC (liquid phase) and GAC (vapor phase) shall include all labor, materials, tools, equipment, replacement carbon (GAC), documentation of and proper disposal of or regeneration of spent carbon, transportation to change out spent carbon, and supply new or regenerated GAC matching the specifications of the engineer and no additional compensation will be allowed.

### **Non-Routine Maintenance and Repairs**

Non-routine maintenance shall be defined as mechanical, electrical or site repairs that are not covered by items or sections in the M&O Manual. The Contractor shall provide to the City, on an approved call out basis, appropriately trained craftsmen to assess the repairs required, determine the most advantageous method to complete the work, and then report back to the Contractor and the City for approval and direction. There are no minimum hours on call outs,

and billable hours are only hours on the job and do not include travel time as billable hours. **The amount paid shall be equal to the prevailing wage rate for the category of labor, burden, direct cost of parts and/or materials used, sales tax; and a total 15% markup.**

The contract price paid (per hour) for non-routine maintenance and repairs shall include full compensation for furnishing all labor, tools, and equipment required to assess the needed repairs, make the repairs, if possible, and or record a course of action for repairs, and no further compensation will be allowed.

#### **Waste Disposal (Knockout Drum Water)**

The contract price paid per gallon for disposal of knockout drum water shall include full compensation for collection, transportation, documentation and proper disposal of water accumulated in the 500-gallon knockout storage drum as detailed in the M&O Manual and as required by the operator of the treatment system, and no additional compensation will be allowed.

#### **GAC Vapor Sampling and Testing by TO15**

The Contractor shall provide all labor, materials, tools and equipment to gather, package, transport, analyze, properly dispose of, and provide report of results for each vapor sample. The samples shall be tested as per method TO15 at an approved laboratory. Typically a grouping of:

- 4 samples per week (year 1)
- 4 samples biweekly (years 2 and 3)
- 4 samples per month (years 4 and 5)

will be taken during a visit. The number of samples is an estimate and may change as required by the engineer or other controlling agencies. The contract price paid per sample shall include full compensation for performing the work as described above and no additional compensation will be allowed.

#### **Subcontractor List**

Operations, Maintenance, Sampling and Reporting:  
WGR Southwest, Inc.  
315 West Pine Street, Suite 8  
Lodi, CA 95240

Granular Activated Carbon:  
Mako Industries, LTD  
831 N Street  
Livermore, CA 94551

## Fee Proposal

Item	Description	Qty.	Unit	Unit Price	Total	Reference
Y2-1	Year 2 Operation, Maintenance, Sampling and Reporting	12	Month	\$4,080.00	\$48,960.00	6-145, 6-148, 6-149, 6-150, 6-162 and RWQCB and SJVAPCD Requirements
Y2-2	Liquid System Granular Activated Carbon (GAC)	36,000	Pound	\$3.23	\$116,280.00	6-153
Y2-3	Vapor System Granular Activated Carbon (GAC)	96,000	Pound	\$4.06	\$389,760.00	6-153
Y2-4	Waste Disposal (Knockout Drum Water)	1,000	Gallon	\$3.87	\$3,870.00	6-161
	Total Year 2 Operation, Maintenance, Sampling and Reporting				\$558,870.00	Total of items Y2-1 – Y2-4. This amount, divided by 12, should be the same amount entered on RFP Part B as the Year 2 monthly cost.

## CITY OF LODI

221 West Pine Street, P.O. Box 3006, Lodi, California, 95241-1910

## INSTRUCTIONS/REQUIREMENTS FOR INSURANCE COVERAGE

1. All contractors/developers who have contracts or agreements with the City are required to carry general liability/automobile insurance.
2. A duplicate or certificate of insurance shall be delivered to the City prior to starting any work on a project.
3. Each certificate shall contain satisfactory evidence that each carrier is required to give the City of Lodi notice 30 days prior to the cancellation or reduction in coverage of any policy.
4. The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.
5. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements, and shall specifically bind the insurance carrier.
6. The CITY OF LODI, ITS ELECTED AND APPOINTED BOARDS, COMMISSIONS, OFFICERS, AGENTS, EMPLOYEES AND VOLUNTEERS must be named as additional insured as an endorsement attached to the certificate of insurance. (THE CITY OF LODI, ITS ELECTED AND APPOINTED BOARDS, COMMISSIONS, OFFICERS, AGENTS, EMPLOYEES AND VOLUNTEERS MUST BE NAMED THE ADDITIONAL INSURED.)
7. Both the street address and the post office box of the CITY OF LODI must be shown along with Number 6 above: 221 West Pine Street, P.O. Box 3006, Lodi, California, 95241-1910.
8. In addition to the additional named insured endorsement on the policy of insurance, said insurance policy shall be endorsed to include the following language:  

"Such insurance as is afforded by the endorsement for the additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."
9. The minimum limits of such insurance shall be \$5,000,000 Bodily Injury each occurrence/aggregate, or \$10,000,000 combined single limit.  
 Automobile insurance \$1,000,000: Contractors must carry automobile insurance.  
 Pollution Liability: \$5,000,000 per occurrence and \$10,000,000 aggregate.  
 Professional Liability (Errors & Omissions): \$1,000,000 per claim.
10. If the limits of coverage are not the amounts specified in Number 9 above, and/or if the City is not named as an additional insured on the attachment to the certificate of insurance, and/or if the primary insurance endorsement is not attached, the City will not accept the certificate and a corrected certificate must be furnished to the City.
11. Contractor/Developer agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claim period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).
12. "Claims made" coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.
13. No contract agreement will be signed nor will any work begin on a project until the proper insurance certificate is received by the Public Works Department. **Please be sure your insurance company sends this certificate to the attention of the Public Works Department.**

1. AA# \_\_\_\_\_  
2. JV# \_\_\_\_\_

## CITY OF LODI APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	Rebecca Areida-Yadav	5. DATE:	03/16/2012
4. DEPARTMENT/DIVISION: Public Works			

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW					
	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	190		3205	Fund Balance	\$ 558,870.00
B. USE OF FINANCING	190	190121	7323	PCE Remedial Measures	\$ 558,870.00

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET	
<p>Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.</p> <p>Professional Services Agreement and extension with Diode Construction for operations and maintenance services.</p>	
<p>If Council has authorized the appropriation adjustment, complete the following:</p> <p>Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.</p> <p>Department Head Signature: <u>Wally Landich</u></p>	

8. APPROVAL SIGNATURES	
Deputy City Manager/Internal Services Manager	Date

Submit completed form to the Budget Division with any required documentation.  
Final approval will be provided in electronic copy format.



RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING  
CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES  
AGREEMENT AND EXTENSIONS FOR OPERATIONS AND  
MAINTENANCE SERVICES OF CENTRAL PLUME PCE/TCE  
GROUNDWATER EXTRACTION AND TREATMENT SYSTEM  
AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, the Central Plume PCE/TCE Remedial Measure Project was awarded to Diède Construction, Inc., of Woodbridge, on March 7, 2010, and consisted of the design, construction, one year operation and maintenance of a groundwater extraction and treatment system and a soil vapor extraction and treatment system; and

WHEREAS, staff recommends exercising the option provided in the original bid documents for Diède Construction, Inc., to continue providing maintenance, operations, testing and reporting services for the treatment facility; and

WHEREAS, staff further recommends that the City Manager be authorized to negotiate and execute annual extensions of the Professional Services Agreement with Diède Construction, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Diède Construction, Inc., of Woodbridge, California, in the amount of \$558,870, for operation and maintenance services of the Central Plume PCE/TCE groundwater extraction and treatment system; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize the City Manager to negotiate and execute annual extensions of the Professional Services Agreement with Diède Construction, Inc., for operation and maintenance services of the Central Plume PCE/TCE groundwater extraction and treatment system; and

BE IT FURTHER RESOLVED that funds in the amount of \$558,870 be appropriated from Central Plume Settlement Funds.

Dated: April 4, 2012

=====

I hereby certify that Resolution No. 2012-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute Amended Professional Services Agreement with HDR Engineering, Inc., of Folsom, for Construction Administration Services for Surface Water Treatment Facility (\$9,111)

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution authorizing City Manager to execute amended professional services agreement with HDR Engineering, Inc., of Folsom, for construction administration services for Surface Water Treatment Facility, in the amount of \$9,111.

**BACKGROUND INFORMATION:** City Council adopted a resolution on October 20, 2010, approving the contract for construction administration services for the Surface Water Treatment Facility Project with HDR Engineering, of Folsom.

Over the past 18 months, a number of changed conditions have been encountered warranting an amendment to the scope of work and payment conditions of the HDR contract. These are summarized below.

1. During the pre-construction biological survey, San Joaquin Council of Governments' biological consultants identified jurisdictional wetlands within the project area. HDR environmental specialists were retained to ultimately refute the claim (\$4,183).
2. The City's contractor, Overaa, and HDR collaborated on several value engineering analyses that resulted in a cost savings to the project of approximately \$151,000. The cost savings were implemented by revising the designs for the operations building, chemical building, and high-service pumping station (\$35,214).
3. Key wall reinforcement was left out of the operations building block wall requiring HDR to develop alternative reinforcement details (\$6,696).
4. A number of change orders have been issued to the contractor resulting from design deficiencies on the part of HDR. These resulted in additional costs to the City that are being credited by HDR (\$36,982 Credit).

Staff recommends approval of the HDR amended professional services agreement, resulting in a net increase in contract value of \$9,111. The current project appropriation is sufficient to cover this change.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** Water Capital Fund (181): \$9,111

\_\_\_\_\_  
Jordan Ayers  
Deputy City Manager/Internal Services Director

\_\_\_\_\_  
F. Wally Sandelin  
Public Works Director

FWS/pmf

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager

AMENDMENT NO. 1

HDR Engineering, Inc.  
Professional Services Agreement

THIS AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT, is made and entered this \_\_\_\_ day of April, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and HDR ENGINEERING, INC. (hereinafter "CONSULTANT").

WITNESSETH:

1. WHEREAS, CONSULTANT and CITY entered into a Professional Services Agreement (Agreement) on November 17, 2010, as set forth in Exhibit A (attached).
2. WHEREAS, CONSULTANT requested to amend said Agreement as set forth in Exhibit B (attached); and
3. WHEREAS, City agrees to said amendment;

NOW, THEREFORE, the parties agree to amend the Scope of Services and Fee as set forth in the Agreement as Exhibit A and B, respectively.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Amendment No. 1 on \_\_\_\_\_, 2012.

CITY OF LODI, a municipal corporation  
Hereinabove called "CITY"

HDR ENGINEERING, INC.  
Hereinabove called "CONSULTANT"

\_\_\_\_\_  
KONRADT BARTLAM  
City Manager

\_\_\_\_\_  
Name:  
Title:

Attest:

\_\_\_\_\_  
RANDI JOHL, City Clerk

Approved as to Form:

\_\_\_\_\_  
D. STEPHEN SCHWABAUER  
City Attorney



**AGREEMENT FOR CONSULTING SERVICES****ARTICLE 1  
PARTIES AND PURPOSE****Section 1.1 Parties**

THIS AGREEMENT is entered into on November 17, 2010, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and HDR ENGINEERING, INC. (hereinafter "CONSULTANT").

**Section 1.2 Purpose**

CITY selected the CONSULTANT to provide the Construction Administration services required in accordance with attached scope of services, Exhibit A.

CITY wishes to enter into an agreement with CONSULTANT for ENGINEERING SERVICES DURING CONSTRUCTION FOR THE SURFACE WATER TREATMENT FACILITY project (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A.

**ARTICLE 2  
SCOPE OF SERVICES****Section 2.1 Scope of Services**

CONSULTANT, for the benefit and at the direction of CITY, shall perform the scope of services as set forth in Exhibit A, attached and incorporated by this reference.

**Section 2.2 Time For Commencement and Completion of Work**

CONSULTANT shall commence work within ten (10) days of executing this Agreement, and complete work under this Agreement based on the Project Construction Schedule.

CONSULTANT shall not be responsible for delays caused by the failure of CITY staff or agents to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONSULTANT's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONSULTANT shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

### **Section 2.3 Meetings**

CONSULTANT shall attend Weekly Project meetings as indicated in the Scope of Services, Exhibit A, or as requested by the Owner.

### **Section 2.4 Staffing**

CONSULTANT acknowledges that CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The scope of services shall be performed by CONSULTANT, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONSULTANT of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel in CITY's sole discretion and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT represents that it is prepared to and can perform all services within the scope of services specified in Exhibit A. CONSULTANT represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONSULTANT to practice its profession, and that CONSULTANT shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals.

### **Section 2.5 Subcontracts**

CITY acknowledges that CONSULTANT may subcontract certain portions of the scope of services to subconsultants as specified and identified in Exhibit A. Should any subconsultants be replaced or added after CITY's approval, CITY shall be notified within ten (10) days and said subconsultants shall be subject to CITY's approval prior to initiating any work on the Project. CONSULTANT shall remain fully responsible for the complete and full performance of said services and shall pay all such subconsultants.

## **ARTICLE 3 COMPENSATION**

### **Section 3.1 Compensation**

CONSULTANT's compensation for all work under this Agreement shall conform to and shall not exceed the provisions of Fee Proposal, attached as Exhibit B.

CONSULTANT shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

### **Section 3.2 Method of Payment**

CONSULTANT shall submit invoices for completed work on a monthly basis, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the scope of services said work is attributable.

### **Section 3.3 Costs**

The fees shown on Exhibit B include all reimbursable costs required for the performance of the individual work tasks by CONSULTANT and/or subconsultant and references to reimbursable costs located on any fee schedules shall not apply. Payment of additional reimbursable costs shall be approved in writing by CITY.

CONSULTANT charge rates are attached and incorporated with Exhibit C. The charge rates for CONSULTANT shall remain in effect and unchanged for the duration of the Project unless approved by CITY.

### **Section 3.4 Auditing**

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

## **ARTICLE 4 MISCELLANEOUS PROVISIONS**

### **Section 4.1 Nondiscrimination**

In performing services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees or in the engagement of any subconsultants on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

**Section 4.2 Responsibility for Damage**

CONSULTANT shall indemnify and save harmless the City of Lodi, the City Council, elected and appointed Boards, Commissions, all officers and employees or agent from any suits, claims or actions brought by any person or persons for or on account of any injuries or damages sustained or arising from the services performed in this Agreement but only to the extent caused by the negligent acts, errors or omissions of the consultant and except those injuries or damages arising out of the active negligence of the City of Lodi or its agents, officers or agents.

**Section 4.3 No Personal Liability**

Neither the City Council, the City Engineer, nor any other officer or authorized assistant or agent or employee shall be personally responsible for any liability arising under this Agreement.

**Section 4.4 Responsibility of CITY**

CITY shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance, except as expressly provided herein.

**Section 4.5 Insurance Requirements for CONSULTANT**

CONSULTANT shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect CONSULTANT and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from CONSULTANT'S operations under this Agreement, whether such operations be by CONSULTANT or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

**1. COMPREHENSIVE GENERAL LIABILITY**

\$1,000,000 Bodily Injury -

Ea. Occurrence/Aggregate

\$1,000,000 Property Damage -

Ea. Occurrence/Aggregate

or

\$1,000,000 Combined Single Limits

**2. COMPREHENSIVE AUTOMOBILE LIABILITY**

\$1,000,000 Bodily Injury - Ea. Person  
\$1,000,000 Bodily Injury - Ea. Occurrence  
\$1,000,000 Property Damage - Ea. Occurrence

or

\$1,000,000 Combined Single Limits

NOTE: CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage.

A copy of the certificate of insurance with the following endorsements shall be furnished to CITY:

(a) Additional Named Insured Endorsement

Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents and Employees as additional named insureds insofar as work performed by the insured under written Agreement with CITY. (This endorsement shall be on a form furnished to CITY and shall be included with CONSULTANT'S policies.)

(b) Primary Insurance Endorsement

Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

(c) Severability of Interest Clause

The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(d) Notice of Cancellation or Change in Coverage Endorsement

This policy may not be canceled by the company without 30 days' prior written notice of such cancellation to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241.

(e) CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.). "Claims made" coverage requiring the insureds to give notice of any potential



liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

**Section 4.6 Worker's Compensation Insurance**

CONSULTANT shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of CONSULTANT'S employees employed at the site of the project and, if any work is sublet, CONSULTANT shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, CONSULTANT shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA, 95241.

**Section 4.7 Attorney's Fees**

In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the court.

#### **Section 4.8 Successors and Assigns**

CITY and CONSULTANT each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONSULTANT shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

#### **Section 4.9 Notices**

Any notice required to be given by the terms of this Agreement shall be deemed to have been given when the same is personally served or sent by certified mail or express or overnight delivery, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi  
F. Wally Sandelin, Public Works Director  
221 West Pine Street  
P.O. Box 3006  
Lodi, CA 95241-1910

To CONSULTANT: HDR Engineering, Inc.  
Timothy R. Fleming, Senior Vice President  
2365 Iron Point Road, Suite 300  
Folsom, CA 95630

#### **Section 4.10 Cooperation of CITY**

CITY shall cooperate fully in a timely manner in providing relevant information that it has at its disposal.

#### **Section 4.11 CONSULTANT is Not an Employee of CITY**

It is understood that CONSULTANT is not acting hereunder in any manner as an employee of CITY, but solely under this Agreement as an independent contractor.

#### **Section 4.12 Termination**

CITY may terminate this Agreement by giving CONSULTANT at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONSULTANT shall be entitled to payment as set forth in the attached Exhibit A to the extent that the work has been performed. Upon termination, CONSULTANT shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from

services not completed or for contracts entered into by CONSULTANT with third parties in reliance upon this Agreement.

**Section 4.13 Severability**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**Section 4.14 Captions**

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent.

**Section 4.15 Integration and Modification**

This Agreement represents the entire integrated Agreement between CONSULTANT and CITY; supersedes all prior negotiations, representations, or Agreements, whether written or oral, between the parties; and may be amended only by written instrument signed by CONSULTANT and CITY.

**Section 4.16 Applicable Law and Venue**

This Agreement shall be governed by the laws of the State of California. Venue for any court proceeding brought under this Agreement will be with the San Joaquin County Superior Court.

**Section 4.17 Contract Terms Prevail**

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

**Section 4.18 Authority**

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

**Section 4.19 Ownership of Documents**

All documents, photographs, reports, analyses, audits, computer tapes or cards, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared for this project, shall be deemed the property of CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all such documents during regular business hours. Upon termination or completion, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) days.

CITY agrees to indemnify, defend and hold CONSULTANT harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were prepared.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

By

  
RANDI JOHL  
CITY CLERK

By

  
KONRADT BARTLAM  
INTERIM CITY MANAGER

APPROVED AS TO FORM:

Dated:

Nov 12, 2010


By

  
D. STEPHEN SCHWABAUER  
CITY ATTORNEY

HDR, Inc.

By:

Its:

<sup>Engineering</sup>  
  
Senior Vice President



ONE COMPANY | *Many Solutions™*

August 27, 2010

Mr. F. Wally Sandelin, Public Works Director  
City of Lodi  
Public Works Department  
211 West Pine Street  
Lodi, CA 95240

**RE: Updated Proposal for Surface Water Treatment Facility and Transmission Project – Engineering Services During Construction**

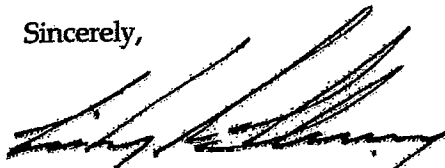
Dear Mr. Sandelin:

Attached please find the second draft of HDR's proposal to provide engineering services during construction for the City's Surface Water Treatment Facility and Transmission Project. Items included with this proposal are:


- Exhibit A - Scope of Work.
- Exhibit B - Estimated Work Effort and Cost.

Please contact me if you have any questions or comments.

Sincerely,



Timothy R. Fleming, P.E.  
Senior Vice President



Richard G. Stratton, P.E.  
Project Manager / Vice President

RGS:pk/10252

## **EXHIBIT A SCOPE OF WORK**

### **City of Lodi Surface Water Treatment Facility and Transmission Project - Engineering Services during Construction**

The following scope of services outlines the tasks and activities to be provided by HDR Engineering, Inc., (HDR) and West Yost Associates during the construction of the City of Lodi's (City's) Surface Water Treatment Facility and Transmission Project. For the purpose of estimating level of effort, this scope assumes a construction project duration of 22 months, including two months for startup and final acceptance. It is understood that the City will be the Construction Manager for the project. HDR and West Yost will provide consultation services during construction, providing continuity of our role as project designer.

#### **TASK 1 - PROJECT MANAGEMENT AND QUALITY ASSURANCE/QUALITY CONTROL (QA/QC)**

##### **Project Management**

This task includes the management activities required to efficiently provide HDR's scope of services and meet the City's goals.

- Develop a project management work plan to serve as a communication tool for the City, HDR staff, and subconsultants.
- Prepare invoices and decision log updates on a monthly basis.
- Coordinate with the subconsultants, schedule staff, and coordinate the quality assurance effort.

##### **QA/QC Program**

- Institute and maintain a QA/QC program for the work performed on this project, including QC reviews of pertinent correspondence, deliverables, documentation, and project management data.
- Schedule and institute internal audits of the project to assure compliance with the scope.

#### **TASK 2 - SITE VISITS / MONTHLY PROGRESS MEETINGS**

- Attend preconstruction conference with two HDR participants.
- Make site visits to observe construction progress, verify design intent, assist in field decision making and problem resolution, and attend weekly construction progress meetings during

active construction. Attend meetings to provide design input on construction and submittal review issues and concurrently provide on-site observation.

- Provide additional field visits to the construction site upon request to observe the work in progress and advise the City of any appropriate comments and/or concerns.
- A total of 104 monthly progress meetings and up to five additional meetings/site visits, as requested by the City, with one or two HDR participants at each meeting site visit, are assumed.

### **TASK 3 - SCADA AND ELECTRICAL, INSTRUMENTATION, AND CONTROL INTEGRATION FIELD SUPPORT**

- Make site visits to verify design, assist with field problem resolution, and hold progress meetings to coordinate electrical and instrumentation supply, construction, and SCADA system integration.
- Assume five meetings for the purpose of electrical, instrumentation, and control planning, coordination, and troubleshooting, including up to two participants from HDR.

### **TASK 4 - SUBMITTAL REVIEW**

- Review shop drawing submittal schedule provided by the contractor. Notify contractor of acceptance or rejection of schedule noting deficiencies and indicating contractor action required.
- Distribute copies of approved schedule to design team members responsible for shop drawing reviews.
- Receive, log, and distribute submittals received from Construction Manager to appropriate design team members for review.
- Review and comment on contractor's submittals including: vendor tests, specification, and reports, as required by the technical specifications, for work related to HDR's scope of design services, and vendor operations and maintenance (O&M) manuals. HDR will review and accept contractor submittals, such as shop drawings, product data, samples, and other data, for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review will not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication process, construction means or methods, coordination of the work with other trades, or construction safety precautions, all of which are the sole responsibility of the contractor. HDR's review will be conducted with reasonable promptness while allowing sufficient time in HDR's judgment to permit adequate review. Review of a specific item will not indicate that HDR has reviewed the entire assembly of which the item is a component. HDR will not be responsible for any deviations from the contract documents not brought to the attention of HDR in writing by the contractor. HDR will not be required to review partial submissions nor those for which submissions of correlated items have not been received. Reviews shall be performed by the engineer that designed the project element or acceptable

substitute. Budget is based upon 300 submittals, including resubmittals and four engineering hours, 0.5 project manager hours, and one clerical hour per submittal.

#### **TASK 5 - REQUEST FOR INFORMATION/REQUEST FOR CLARIFICATION (RFI/RFC) REVIEW AND RESPONSE**

- Review RFIs and RFCs, and provide response options and recommendations in a timely manner, including expedited reviews for time sensitive RFIs/RFCs. Prepare design clarifications as required to clarify design intent. Budget is based upon 200 RFIs and four engineering hours, 0.5 project manager hours, 0.5 clerical hours, and 0.5 CAD hours per RFI.

#### **TASK 6 - PROPOSED CONTRACT MODIFICATIONS (PCMS) AND CHANGE ORDER ASSISTANCE**

##### **PCMs**

- Prepare PCM for design changes, including design calculations, drawings, justification, and cost estimates. Budget is based upon up to eight PCMs and supporting documentation, at an average of 10 engineering hours, four project manager hours, 12 CAD hours, and four clerical hours per PCM.

##### **Change Order Assistance**

- Assist the City in reviewing proposed change orders for conformance with the design intent and verification of proposed cost. Budget is based upon review of eight change order requests at an average of four project manager hours and four engineering hours per review.

#### **TASK 7 - FINAL PUNCH LIST**

- Participate in a two-day site visit to develop items for the punch list (three participants from HDR). Prepare and provide items for incorporation into the final punch list maintained by the Construction Manager.
- Review progress completion on punch list items and conduct a two-day site visit to observe completed work and develop final punch list (one participant from HDR).

#### **TASK 8 - STARTUP AND TESTING**

- Attend commissioning team meetings and provide startup and initial operating assistance including assistance in the development, review, and implementation of the contractor's startup and sequencing plan for the SCADA system, membrane systems, pumping stations, and ancillary systems.
- Witness functional testing and performance testing. Provide oversight to confirm that the facilities function properly and meet performance criteria as established in the contract documents.



- Budget is based upon a labor allocation of 200 engineering hours and 6 administration hours.

#### **TASK 9 – RECORD DRAWINGS**

- The contractor is responsible for maintaining a single field mark-up set, and the City's red-lines should be contained in a single marked-up set. HDR will provide CAD-generated record drawings from the contractor's and City's "red-line" field mark-up set. Details and drawings will be updated based upon review of City/contractor redlines and actual equipment shop drawings. Detailed shop drawing information will not be placed on the drawings, but will be used to correct the original drawings. Reconcile PCMs and change orders with contractor mark-ups to ensure contract changes have been incorporated.
- One full-size (22" x 34") bond set, one PDF file, and one set of CAD files of the record drawings will be provided.
- Budget is based upon 360 drawings, 0.5 engineering hour, and one CAD hours per drawing.

#### **TASK 10 – TECHNICAL REPORT TO SUPPORT SURFACE WATER TREATMENT FACILITY PERMIT APPLICATION**

- Section 116530 of the Safe Drinking Water Act, entitled "Technical report" states, "A public water system shall submit a technical report to the department as part of the permit application or when otherwise required by the department. This report may include, but not be limited to, detailed plans and specifications, water quality information, and physical descriptions of the existing or proposed system, and financial assurance information."
- Prepare the technical report in accordance with the California Waterworks Standards.
- Submit one PDF copy of the draft report to the California Department of Public Health (CDPH) and the City for review and approval prior to preparing the final copies for binding.
- Three bound copies of the final report plus CD with both PDF and MSWord versions will be provided to the City.

#### **TASK 11 – O&M MANUAL AND OPERATIONS PLAN**

- Prepare a facility O&M manual and Operations Plan that covers the operation of the raw water pump station and the surface water treatment facility. The O&M manual will be a complete document with process schematics, photos showing location of key components, and process and instrumentation diagrams (P&IDs). It will cover operation of each of the plant's components, control descriptions and normal facility setpoints, equipment specifications, and general troubleshooting procedures. The O&M manual will include general operating guidance for the membrane system and will reference more detailed membrane operating procedures to be provided by the membrane supplier.
- Submit one PDF copy of the draft O&M manual to the City and CDPH for review and approval prior to preparing the final copies for binding. The O&M Manual will include an Operations Plan in accordance with the California Waterworks Standards.

- Provide three bound copies of the final O&M manual, in three-ring binders, plus a CD with both PDF and MSWord versions.

#### **OPTIONAL ITEM TASK – TRAINING FOR CITY STAFF**

- Review training manuals prepared by others, such as equipment suppliers.
- After completing the O&M manual (see Task 12), prepare course materials and conduct training sessions for O&M personnel on each surface water treatment facility unit process and on the overall operation of the plant. Operator training shall include approximately 40 hours of classroom training with handouts as required. Budget is based upon an allocation of 100 engineering/operations specialist hours, 32 project manager hours, 14 hours electrical engineer, and 20 administration hours. Training will be conducted in classrooms at the plant or another location provided by the City.

#### **CITY AND CONTRACTOR/ RESPONSIBILITIES**

- The City will be responsible for construction management, including, but not limited to, processing payment requests, document management, dispute resolution, progress meetings, inspection, testing supervision, and final closeout.
- Contractor is responsible for completing the project within the time allowed in the contract or be subject to liquidated damages.
- The contractor must submit updated redline as-built mark-ups prior to receiving an approval on each payment request.
- The contractor is responsible for their means and methods of constructing the project subject to the contract documents, applicable laws and codes, construction site safety, and coordination of work between trades.

# **EXHIBIT B - ESTIMATED WORK EFFORT AND COST**

City of Lodi

Surface Water Treatment Facility and Transmission Project - Engineering Services During Construction

Task No.	Task Description	Principal/ QA/QC	Project Manager	Civil/ Process	Arch	Struct Engr	Mech Engr	Elect Engr	CADD Tech	Admin/ Clerical	Total HDR Labor Hours	Total HDR Labor (\$)	Total HDR Expenses (\$)	Subs (\$)	Total Cost (\$)
1	Project Management and QA/QC	6	58							72	138	\$21,077	\$ 1,688	\$ 6,600	\$ 29,383
2	Site Visits/Progress Meetings (up to 109)		80	300	16	4	12			20	432	\$70,477	\$ 7,048	\$ 11,000	\$ 88,524
3	SCADA and Electrical, Instrumentation, and Control Integration Field Support (up to 5 meetings)		8	8				40		4	60	\$11,881	\$ 1,168		\$ 12,849
4	Submittal/O&M Manual Review (up to 300)		150	220	140	136	132	172	140	300	1,390	\$206,633	\$ 20,863	\$ 46,200	\$ 273,496
5	RFI/RFC Review and Response (up to 200)		100	156	90	90	80	120	120	100	856	\$132,517	\$ 13,252	\$ 25,850	\$ 171,619
6	PCM and Change Order Assistance (up to 8, each)		64	62	6	6	6	8	96	32	280	\$42,165	\$ 4,217	\$ 7,700	\$ 54,082
7	Final Punch List		16	8			8	16		5	53	\$9,777	\$ 978	\$ 2,200	\$ 12,955
8	Startup and Testing		16	96			12	27		8	159	\$28,329	\$ 2,633	\$ 7,700	\$ 36,662
9	Record Drawings	16	20	68	8	8	8	8	360	24	520	\$67,118	\$ 6,712	\$ 13,200	\$ 87,030
10	Technical Report to Support Permit Application	12	38	121					40	40	251	\$38,056	\$ 3,806		\$ 41,861
11	O&M Manual and Operations Plan	12	64	140			16	24	80	88	424	\$63,059	\$ 6,100	\$ 6,600	\$ 75,759
<b>TOTALS</b>		<b>46</b>	<b>614</b>	<b>1,179</b>	<b>260</b>	<b>244</b>	<b>274</b>	<b>415</b>	<b>836</b>	<b>693</b>	<b>4,561</b>	<b>\$688,889</b>	<b>\$68,261</b>	<b>\$127,050</b>	<b>\$884,200</b>
<b>Optional Item</b>															
O1	Training for City Staff	2	32	100				14		20	168	\$27,692	\$ 2,769		\$ 30,461

**HDR ENGINEERING, INC.  
STANDARD RATE SCHEDULE  
November 2010 to August 2012**

**City of Lodi  
Surface Water Treatment Facility and Transmission Project -  
Engineering Services During Construction**

Project Principal	295
Sr. Financial Specialist	259
Sr. Project Manager	251
Sr. Project Engineer	243
Sr. Cost Estimating Specialist	230
Sr. Structural Engineer	222
Electrical IV	215
Mechanical Engineer III	191
Operation Specialist	184
Electrical Engineer III	172
Process Engineer	172
Project Engineer II	160
CAD Manager	160
Architect I	154
Mechanical Engineer I	151
Civil Engineer	139
Sr. CAD Tech	137
CAD Tech III	126
Project Controller II	124
Structural Engineer	117
Cost Estimator	117
Sr. Administrative	105
Engineer-in-Training	102
Drafter III	93
Clerical	70

*Please Note: Rates include current overhead rate plus profit.*

**EXPENSES**

**In-House Expenses**

Technology Charge per Direct Labor Hour	\$3.70
Vehicle Mileage (per mile)	Current Federal Travel Regulation (FTR)
Color Copy (per copy)	\$0.75 to \$1.50
Photocopies (per copy)	\$0.10 to \$0.20
Bond Plotting - Black & White (per square foot)	\$0.135
Bond Plotting - Color (per square foot)	\$0.50
Vellum - Black & White (per square foot)	\$0.50
Mylar - Black & White (per square foot)	\$0.90

*Please Note: Technology charges include computer, CADD, network, software, and other related technology services. Expenses and subconsultants are charged with a 10 percent markup.*

March 21, 2012

Mr. F. Wally Sandelin  
City Engineer/Deputy Public Works Director  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

**RE: Proposed Amendment No. 1  
Surface Water Treatment Facility - Engineering Services During Construction**

Dear Mr. Sandelin:

HDR respectfully submits the following amendment for additional services under the "Engineering Services During Construction for the Surface Water Treatment Facility" agreement dated November 17, 2010, between the City of Lodi and HDR Engineering, Inc., for your review and consideration. The amended scope of work and budget are attached.

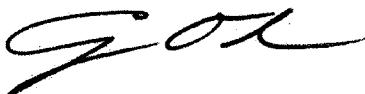
The change in scope increases the fee for the project by \$46,093. Table 1 shows a detailed breakdown of the hours and costs for this contract amendment. Incorporation of the amendment will increase the total budget from \$884,200 to \$930,293. With a labor credit of \$36,982 applied, the net cost increase to the City is \$9,111 and the net total cost is increased to \$893,311.

#### TERMS AND CONDITIONS

Except as specifically modified by this amendment, all terms and conditions of the original agreement between the City and HDR remain in effect.

We appreciate the opportunity to submit this amendment. If you require any clarifications or additional information, please contact Richard Stratton at (916) 817-4819.

Sincerely,



Craig A. Olson, P.E.  
Senior Vice President

RGS:pk/12007



Richard G. Stratton, P.E.  
Project Manager / Vice President

**Table 1 - Amended Exhibit B Estimated Work Effort and Cost**

City of Lodi

Surface Water Treatment Facility - Engineering Services During Construction

Task No.	Task Description	Principal/ QA/QC	Sr. Project Manager	Project Engr II*	Arch	Jr Struct Engr	Mech Engr I	Elect IV	Env	CADD Tech III	Admin/ Clerical	Total HDR Labor Hours	Total HDR Labor (\$)	Total HDR Expenses (\$)	Total Cost (\$)
12	Defense of Wetlands Delineation		2						25		2	29	\$3,873	\$ 310	\$ 4,183
13	Value Engineering Design Changes to Buildings	1	3	80	20	18				108		230	\$32,606	\$ 2,608	\$ 35,214
14	Redesign of Wall Reinforcement for Operations Buildings	1	2	28		4					4	39	\$6,180	\$ 516	\$ 6,696
	Subtotal of Amendment	2	7	108	20	22	-	-	25	108	6	298	\$42,659	\$ 3,434	\$ 46,093
	Credit to be provided by HDR in the form of labor costs														\$ (36,982)
Net increase in cost to the City		\$ 9,111													

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING CITY  
MANAGER TO EXECUTE AMENDED PROFESSIONAL SERVICES  
AGREEMENT FOR CONSTRUCTION ADMINISTRATION SERVICES  
FOR SURFACE WATER TREATMENT FACILITY PROJECT

=====

WHEREAS, on October 20, 2010, City Council approved the contract for construction administration services for the Surface Water Treatment Facility Project with HDR Engineering, of Folsom; and

WHEREAS, since that time, a number of changed conditions have been encountered warranting an amendment to the scope of work and payment conditions of the HDR contract; and

WHEREAS, staff recommends approval of the HDR amended Professional Services Agreement, resulting in a net increase in contract value of \$9,111.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the amended Professional Services Agreement with HDR Engineering, Inc., of Folsom, California, for construction administration services for the Surface Water Treatment Facility Project, in the amount of \$9,111; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize the City Manager to execute the amended Professional Services Agreement with HDR Engineering, Inc.

Dated: April 4, 2012

=====

I hereby certify that Resolution No. 2012-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2012-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving Memorandum of Understanding between the City of Lodi and the Lodi Police Mid-Management Organization for the period of January 1, 2012 through December 31, 2013

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Deputy City Manager

---

**RECOMMENDED ACTION:** Adopt Resolution approving Memorandum of Understanding between the City of Lodi and the Lodi Police Mid-Management Organization for the period of January 1, 2012 through December 31, 2013.

**BACKGROUND INFORMATION:** The Memorandum of Understanding (MOU) between the City of Lodi and The Lodi Police Mid-Management Organization expired on December 31, 2011. The principle components of the MOU (attached as Exhibit A) are as follows:

- The terms and condition of the MOU shall be from January 1, 2012 through December 31, 2013.
- Employees will begin paying the full employee share of retirement (9 percent) effective July 1, 2012.
- The Organization has agreed to a second tier retirement plan based upon a 3 percent at 55 formula with final compensation based upon the highest three-year average compensation.
- Reduce bilingual pay by \$50 per month to \$150 per month.
- Cap medical costs at the January 2012 level effective January 1, 2013.
- Increase Advanced POST certificate incentive to \$250 per month and create new POST incentives for Supervisory POST (\$350 per month) and Management POST (\$450 per month). Incentive to be paid only for the highest POST certificate held.
- Return deferred compensation match (3 percent) effective June 25, 2012.
- Eliminate the employee co-pay for medical insurance (currently \$80 and \$104 for employee + 1 and family, respectively).

**FISCAL IMPACT:** It is estimated that the provisions of the MOU will save the City \$218,000 over the term of this agreement.

**FUNDING AVAILABLE:** Necessary funding will be included in each fiscal year budget.

---

Jordan Ayers  
Deputy City Manager

Attachment

---

APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager



RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY OF LODI  
AND THE LODI POLICE MID-MANAGEMENT  
ORGANIZATION

=====

WHEREAS, representatives from the City of Lodi and the Lodi Police Mid-Management Organization have bargained in good faith for the purpose of amending certain articles of the Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the attached Memorandum of Understanding (Exhibit A) between the City of Lodi and the Lodi Police Mid-Management Organization; and

BE IT FURTHER RESOLVED that said Memorandum of Understanding shall be effective for the period of January 1, 2012 through December 31, 2013.

Dated: April 4, 2012

=====

I hereby certify that Resolution No. 2012-\_\_\_\_\_ as passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2012, by the following votes:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2012-\_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**CITY OF LODI**

**AND**

**LODI POLICE MID-MANAGEMENT ORGANIZATION  
(LPMO)**

**JANUARY 1, 2012 – DECEMBER 31, 2013**

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Leave – Policy

City of Lodi

And

Lodi Police Mid-Management Organization

2012-2013

**CHAPTER 1 - SALARIES AND OTHER COMPENSATION****ARTICLE I - SALARY AND TERM**

- 1.1 The City of Lodi and the LPMO mutually agree the Lieutenant position is the benchmark position for all members of this bargaining unit for determining employee's compensation.
- 1.2 Sergeant's salary will be calculated by dividing the Lieutenants salary by 1.20, creating a 20% separation between Lieutenant and Sergeant.
- 1.3 Captain's salary will be calculated by multiplying the Lieutenants salary by 1.20, creating a 20% separation between Lieutenant and Captain.
- 1.4 The terms and conditions of this MOU shall continue in effect during the term of this MOU. The City of Lodi and LPMO agree that the term is January 1, 2012 through December 31, 2013.
- 1.5 The City of Lodi and the LPMO agree to commence negotiations no later than (3) months prior to the expiration of the MOU.
- 1.6 Although the City is not required to perform or act on a salary survey during the term of this MOU, in the event a salary survey is performed, the City of Lodi and the LPMO agree that the salary survey cities shall be as follows:

*Chico	*Merced	*Tracy
*Clovis	*Modesto	*Turlock
*Davis	*Redding	*Vacaville
*Fairfield	*Roseville	*Visalia
*Manteca	*Stockton	*Woodland

Salary surveys shall include the following areas of compensation:

- Salary

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1.2 . The Lieutenants salary increases will be calculated using the following formula.¶

¶ . The City of Lodi and LPMO shall establish a salary survey to include the following areas of comparison:¶

¶ . Salary¶  
 . PERS employee contribution paid by employer¶  
 . Health Care Contributions paid by employer¶  
 . Education Incentives¶  
 . POST Certificate Pay¶  
 . Longevity Pay¶  
 . Deferred Compensation Contributions¶

¶ . Effective July 1, 2007, once the survey is complete the LPMO and the City of Lodi will calculate the Median of the survey and the median will be used to calculate the Lieutenants salary increases. Each year's survey called for herein will be based on

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Deleted: <#>July 1<sup>st</sup>, 2007 a salary survey will be conducted using the formula in section 1.2. Salaries will be increased effective July 1<sup>st</sup>, 2007 based on the survey. (Notwithstanding any changes occurring after the date of this Tentative Agreement, the first year increase will equal 11.7% for Lieutenants, Captains and Sergeants ... [1]

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- PERS employee contribution paid by employer
- Health Care Contribution paid by employer
- Education Incentives
- POST Certificate Pay
- Longevity Pay
- Deferred Compensation Contribution

1.7 The parties entered into a side letter agreement approved by the City Council on June 1, 2011, the terms of which will continue in effect through the termination date referenced in the side letter agreement.

## ARTICLE II - UNIFORM ALLOWANCE

- 2.1 The City agrees to provide a uniform allowance of \$950.00 annually.
- 2.2 The uniform allowance shall be paid bi-weekly in conjunction with regular pay checks.
- 2.3 The City agrees to repair or replace uniforms damaged or destroyed on duty unless gross negligence can be shown on the part of the employee. Receipts shall be required prior to reimbursement.

## ARTICLE III – BI-LINGUAL PAY

- 3.1 Employees designated by the Department Head and approved by the City Manager who have passed a bi-lingual proficiency examination administered by the City shall receive a monthly bi-lingual premium of \$150.00.

## ARTICLE IV – COMPENSATORY TIME

- 4.1 Employees may accrue compensatory time in lieu of overtime pay. The accrual rate for compensatory time shall be one and one-half hours for each hour of overtime time worked.
- 4.2 No more than two hundred forty (240) hours of compensatory time may be carried on the books at any time.
- 4.3 An employee's decision to elect compensatory time instead of overtime pay is irrevocable.
- 4.4 Upon separation, the employee will be paid at the employee's current hourly rate or the average of the last three years, whichever is higher, for the remaining compensatory balance.

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**Deleted:** LPMO will dismiss, and pursue no further administrative or legal action regarding its grievance filed in 2007 under its MOU dated July 1, 2006 - June 30, 2007 concerning the Lodi Mid-Management Association's grant of a 4% COLA and whether that action triggered LPMO's "Me Too" clause.¶

¶ <#>Except as modified herein, all other terms of the MOU shall be the same as those for the LPMO MOU effective July 31, 2003 - June 30, 2007.¶

¶ <#>Article 35.4 of the LPMO MOU effective July 31, 2003 - June 30, 2007 shall be amended to read as follows:¶

¶ If a grievance is not resolved in Step One, Step Two shall be the presentation of the grievance by the Association Representative, in writing, to the City Manager who shall answer, in writing, within fifteen work days of receipt of the grievance, the City Manager's decision shall be final and binding regarding the City's Administrative Process.¶

¶ This Tentative Agreement only represents the tentative agreement of the negotiating parties. In order for it to become binding and effective it m ... [8]

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- 4.5 Bargaining unit members shall be allowed to cash out up to a maximum of 100 hours of earned compensatory time off twice per year in April and October.

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## ARTICLE V – COURT TIME

- 5.1 Employees scheduled to make court appearances during off-duty hours, on scheduled days off, or when on graveyard shift, shall be compensated at the rate of time and one-half for actual hours involved in such appearances. In no event shall they be paid for less than four hours.
- 5.2 Court appearances which are within two hours of the beginning of a shift or within one hour of the end of the shift shall be compensated at the time and one-half rate. Such appearances shall be reported as contiguous shift extensions.
- 5.3 Cancellation of scheduled appearance must be made at least two hours before said scheduled appearance or the minimum three hours shall be paid.
- 5.4 Employees who receive a subpoena to appear in court, shall notify their supervisor of the appearance date and time in order to provide the Watch Commander time to review the schedule to determine if rest period time is required, or additional staff will be needed.

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¶  
<#>Definition¶

¶ A Performance Incentive Bonus (PIB) is a monetary reward for meritorious performance above and beyond what is expected and required of all employees who satisfactorily meet the standards of their job.¶

¶ Said bonus will be \$1,000 for those employees who have completed the service requirements of ten (10) years, and \$2,000 for those employees who have completed the service requirements of twenty (20) years. ¶

¶ Said bonus is not a part of base salary. Receipt of bonus for one year does not affect the following year. Employees must submit a new application for each year they wish to be considered for the PIB.¶

¶ It is understood that said bonus is discretionary, and based upon meritorious performance as described in the PIB evaluation criteria.¶

¶ Employees who are granted a PIB by the evaluation committee, will be issued a separate check for the appropriate amount in November of each year of this contract.¶

¶  
<#>Eligibility . ¶

¶ . To be eligible to apply for the bonus, employees must meet the following minimum . qualifications:¶

¶ <#>Employees must have completed at least ten (10) full years of service at the rank of Police Officer or higher with the City of Lodi by the beginning of the preceding time period being evaluated (i.e. to be eligible for consideration in November of 2003, an employee will have to have had to complete ten (10) full years of service by June 30, 2003). ¶

&lt;#&gt;Employees must have, at a n [14]

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## ARTICLE VI - LONGEVITY PAY

- 6.1 After completing ten years of service with the Lodi Police Department, employees shall receive an annual longevity pay in the amount of \$1,500 in November of the year following completion of ten years of service and each year thereafter until completing twenty years of service with the Lodi Police Department. Employees who have completed twenty years of service with the Lodi Police Department will receive longevity pay in the amount of \$3,000 in November of the year following completion of twenty full years of service and each year thereafter.

For the purposes of this article, all employees who as of October 31<sup>st</sup> meet the service level requirements (either ten full years or twenty full years from the first day of the month in which they started their employment with the City of Lodi Police Department) shall receive the longevity pay associated with their years of service with the Lodi Police Department.

The incentive in this Article is limited to employees hired prior to the execution of this MOU.

## ARTICLE VII – SPECIAL ASSIGNMENT PAY

- 7.1 Employees assigned to SWAT or Sergeants assigned to the Detective Bureau or Office of Professional Standards (OPS) shall receive an allowance equal to 4.5% of their normal base pay. It is mutually agreed that assignments to the Detective Bureau or SWAT are at

the sole discretion of the Chief of Police. No employee has the right to such assignment. Employees in such positions acknowledge, as does the LPMO, that employees may be transferred or reassigned from their position on a non-punitive basis and that they have no right to appeal from such transfer or reassignment.

## **ARTICLE VIII – OUT OF CLASS PAY**

- 8.1 Employees in this bargaining unit who are designated by the Chief of Police to work in a higher level classification shall be paid an additional 5% of the employee's regular salary.

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## **ARTICLE IX - CALL BACK PAY**

- 9.1 Officers called to appear for work within two hours of the beginning of a shift, or one hour after the shift, shall receive overtime at the rate of time and one-half. Such appearances shall be reported as contiguous shift extensions. If the appearance begins more than two hours before or more than one hour after the scheduled shift, the employee will be credited a minimum of three hours at the time and one-half rate.

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When an officer is ordered back to work on an "as soon as possible" basis and reports within thirty minutes, the officer shall be compensated from the time of the call.

## **CHAPTER 2 – BENEFITS AND INSURANCES**

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## **ARTICLE X – EMPLOYEE ASSISTANCE PROGRAM**

- 10.1 Employees, their spouses, and dependent children are entitled to three (3) free visits per year per family member with a licensed clinical social worker through the Employee Assistance Program provided through the City. This may be supplemented by medical insurance after exhaustion of the three (3) free visits.

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## **ARTICLE XI - DEFERRED COMPENSATION**

- 11.1 Employees may participate in the City's Deferred Compensation Plan

- 11.2 The City will match up to maximum of 3.0% of gross base salary effective the pay period in which July 1, 2012 falls.

**Deleted:** City matches up to a maximum of 2.0% of base salary.

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## **ARTICLE XII - FLEXIBLE SPENDING ACCOUNT**



- 12.1 Employees shall have the option of participating in the Flexible Spending Account (Section 125 Plan). Employees may elect to participate in;

- a) Premium Conversion
- b) Non-reimbursed Health Care
- c) Dependent Care Reimbursement

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- 12.2 Elections for the calendar year will be made each December, or if a change in family status occurs. Money not used by the end of each calendar year will be forfeited by the employee.

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- 12.3 The City intends to propose a cafeteria-based benefit program in 2012 with an effective date of January 1, 2013. This program would incorporate, but not be limited to: medical, vision, dental, chiropractic and life insurance. The above listed terms of this agreement will be reopened for negotiation upon the City's presentation of a cafeteria plan.

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The City's proposed cafeteria plan will offer substantially the same or better benefits to those currently received by unit members.

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### **ARTICLE XIII - CHIROPRACTIC**

- 13.1 Chiropractic services may be received by employees and dependents. This benefit allows up to a maximum of 40 visits per calendar year. Co-payments for services are \$10.00.

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### **ARTICLE XIV - EDUCATION INCENTIVE**

- 14.1 Effective upon ratification, Education incentives will be available to eligible employees as follows:

Bachelor's Degree: \_\_\$200.00 per month

Advanced POST: \$250.00 per month OR

Supervisory POST: \$350.00 per month OR

Management POST: \$450.00 per month

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POST incentives will be paid based upon the highest level certificate held.

### **ARTICLE XV - OVERTIME**

- 15.1 The following special provisions for the payment of overtime will apply to Police Sergeants and Police Lieutenants. Employees shall be compensated for overtime at the time and one-half rate for time worked due to emergencies. Emergencies shall be determined by the appropriate department head and include but are not limited to such events as:

- ♦ The necessity to cover scheduled shifts;
- ♦ Direct supervision of crews assigned to work during normal days off to accommodate the public;
- ♦ Break down of equipment and/or systems requiring the presence of the mid-manager in order to restore service.

15.2 Overtime pay shall not be paid for the following:

- ♦ Staff meetings
- ♦ Special projects
- ♦ Conferences and seminars - except as noted below
- ♦ Appearances before City Council and commissions,
- ♦ Public information presentations,
- ♦ Activities involved with the completion of normal activities or programs such as budgets, inventory, annual financial closings, labor negotiations, and recreation programs.

15.3 All overtime must be approved by the department head. Any deviations from these guidelines must be approved in advance by the department head and the City Manager.

15.4 Upon promotion into a Mid-Management position only previously accrued compensatory time must be paid or used prior to the promotion.

15.5 Police Lieutenants and Sergeants shall be compensated for overtime hours necessitated by attending State mandated training and for work on special events as designated by the Chief of Police or Division Commander.

15.6 The classification of Police Captain is deemed exempt from overtime and is not eligible for overtime pay under this article unless such overtime is required during a declared state of emergency and expenditure is mandated for reimbursement to the City of Lodi.

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## ARTICLE XVI - RETIREMENT

16.1 The City of Lodi provides retirement benefits through the Public Employees Retirement System. Employees shall receive the following retirement benefits. The following plan is available to employees hired prior to the date of execution of this MOU:

Public Safety

3% @ 50 plan

- 1959 Survivors Benefit – Third Level
- Employee's 9% paid as noted below
- Credit for Unused Sick Leave
- Military Service Credit as Public Service
- Single Highest Year

16.2 For employees hired after the execution date of this MOU, the following retirement plan will apply:

Public Safety 3% @ 55 plan

- 1959 Survivor Benefit – Third Level
- Employee's 9% paid as noted below
- Credit for Unused Sick Leave
- Military Service Credit as Public Service
- Highest Three Year Average

16.3 Employee shall pay the Employee's share of retirement (9%) effective the pay period in which July 1, 2012 falls.

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## **ARTICLE XVII - SICK LEAVE CONVERSION**

17.1 Employees hired prior to July 1, 1994, after 10 years with the City and only upon retirement, may convert their accumulated sick leave time to medical insurance premiums or cash under the following options:

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### **OPTION #1 - "Bank"**

The number of accumulated hours shall be reduced by 16-2/3% and the remaining balance converted into days. The days are then multiplied by the current monthly premium being paid by the City for the employee and, if applicable, his/her dependents. Fifty percent of that dollar amount will be placed into a "bank" to be used for medical insurance premiums for the employee, and if applicable, his/her dependents. For each year of employment over 10 years, 2.5% will be added to the 50% used in determining "bank" amount. Total premiums shall be paid from the Bank until its depletion, at which time the conversion benefit stops.

### **EXAMPLE:**

Lt. John Smith retires with 25 years of service and 1800 hours of unused sick leave:

Sick Leave Hours -  $1800 \times 16\frac{2}{3}\%$  (reduced per MOU) = 299.99  
 1800 minus 299.99 = 1500.01  
 1500.01 divided by 8 (coverage factor) = 187.5  
 187.50 times 87.5% (% of coverage) = 164.1  
 164.1 times 694.86 (current medical premium) = **\$114,026.52**

Employees may also use their bank's money to purchase Dental and/or Vision Insurance at the current premiums until their bank is depleted.

### **OPTION #2 - "Conversion"**

The number of accumulated hours shall be multiplied by 50% and converted to days. The City shall pay one month's premium for employee and dependents for each day after conversion. For each year of employment in excess of 10 years, 2.5% shall be added to the 50% before conversion. The amount of premium paid shall be the same as the

premium paid by the City at the time of retirement. Any differences created by an increase in premiums must be paid for by the employee.

**EXAMPLE:**

**Lt. John Smith retires with 25 years of service and 1800 hours of unused sick leave:**

**Sick Leave Hours - 1800 divided by 8 (coverage factor) = 225**  
**225 times 87.5 (% of coverage) = 196.88**  
**196.88 divided by 12(yrs) = 16.4 total years of coverage**

**OPTION #3 - "Cash-Out"**

A retiring employee will be able to choose a cash pay-off of accumulated sick leave at the rate of 30% of base pay per hour.

**OPTION #4 – "Service Credit"**

A retiring employee will be able to convert unused sick leave to service credit for Cal PERS retirement purposes.

- 17.2 Employees hired after July 1, 1994 will not have the option of converting unused sick leave time into medical insurance premiums or cash as referenced in OPTION 1-3. The only option available to these employees is OPTION #4 "PERS CREDIT".
- 17.3 In the event an active employee dies before retirement and that employee is vested in the Sick Leave Conversion program (10 years) the surviving dependents have an interest in one-half (1/2) the value of the bank as calculated in section 17.1.
- 17.4 The City shall allow a surviving dependent of a retiree enrolled in the Sick Leave Conversion program to purchase medical insurance at the employee only premium for the same period as if the retiree had not died.
- 17.5 A retiree or surviving dependent, upon expiration of City-paid coverage, if any, has the option of purchasing at the prevailing rate additional medical insurance for an unlimited amount of time.
- 17.6 Out of area retirees may receive reimbursement for medical insurance premiums up to the City's liability as specified in Section 17.1; Option #2.
- 17.7 Only one City of Lodi employee may carry dependent coverage for another City employee, therefore, upon retirement the employee may re-enroll as an individual into the health plan in order to take advantage of the Sick Leave Conversion program.
- 17.8 A retiree or surviving dependent may purchase dental and vision insurance at the City group rate through the Sick Leave Conversion options.

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¶<#>Employees may elect to receive an annual executive physical examination in accordance with the provisions of the City's medical insurance plan to include any and all of the following procedures as applicable and as deemed necessary by the employee's physician:¶

- ¶ . . . A complete office examination . . . An executive blood panel¶
- ¶ . . . Urinalysis . . . Mammogram¶
- ¶ . . . Pap smear . . . Chest X-ray¶
- ¶ . . . EKG (resting)¶

¶<#>Employees shall be reimbursed for costs not covered by the medical[... [15]

**ARTICLE XIX - MEDICAL INSURANCE**

19.1. All employees are offered medical insurance for themselves and dependents through CalPERS medical plans. City shall pay 100% of the premium for employee's family category (Family, Employee + 1, Single) for the lowest cost PERS HMO available in Lodi's geographical area (excluding Porac) effective January 1, 2012.

The City will waive the current employee medical contribution effective the first pay period that begins two weeks after this agreement is approved by Council.

If an employee elects not to be covered by medical insurance through the City of Lodi, an additional:

\$692.81 per month for Family

\$532.92 per month for Employee + 1

\$305.22 per month for Single

will be added to either the employee's deferred compensation account or cash. In order to qualify for this provision, proof of group insurance must be provided to the City.

19.2 Effective January 1, 2013, City will pay a maximum of the following for each family category:

\$1,587.14 for Family

\$1,220.88 for Employee + 1

\$610.44 for Single.

If employee selects a higher cost plan, employee will pay the difference as a payroll deduction.

19.3 LPMO shall allow a maximum of seven (7) City employees to become associate members of LPMO solely to allow access to health plans not otherwise available to non public safety members. Associate memberships shall be allotted on a first-come, first-served basis.

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**Deleted:** All employees are offered medical insurance (including pharmaceutical) for themselves and dependents through CalPERS-Medical Plans. City shall pay 100% premium for employee only up to the highest HMO available in our geographical area. Effective as soon as administratively possible, employees will be responsible for a share of cost of their medical premiums as follows: a) Employees with no dependents – \$0.00 monthly, b) Employees with one dependent - \$80.00 monthly, c) Employees with more than one dependent - \$104.00 monthly. Employees selecting a PPO or other available plan shall also be responsible for the difference in cost between the highest HMO and the selected plan, in addition to the specified employee share of cost. Any employee who is otherwise covered by a medical plan and chooses not to utilize the full extent of medical coverage available to him or her, as applicable, to his or her dependent(s) may opt to receive the following: \$25.00 per pay period paid into the employees deferred compensation account if not covering eligible dependents or if no coverage is elected \$71.15 per pay period will be deposited into the employees deferred compensation account. This section shall not be construed to allow individuals without dependents to receive any portion of the dependent premium.

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**ARTICLE XX - DENTAL INSURANCE**

20.1 Employees are provided fully paid family dental insurance.

20.2 Maximum benefits are \$1,000 for each family member enrolled into the dental plan, per calendar year. There is a \$25 deductible plus co-insurance features.

**ARTICLE XXI - VISION INSURANCE**

21.1 Employees are provided with family vision care insurance through *Vision Service Plan*. Services and amount of coverage are outlined in the VSP Summary of Benefits.

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**ARTICLE XXII - LIFE INSURANCE**

- 22.1 Employees are provided with *term life and accidental death/dismemberment* insurance up to \$25,000. These benefits decrease after age 70 on a sliding scale, depending on age.
- 22.2 Employees are provided with \$100,000 of *accident insurance* while traveling on City business outside the City limits. Spouses are only covered while accompanying the City employee on City business, or while conducting business on behalf of the City.

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**ARTICLE XXIII - SURVIVORS MEDICAL BENEFITS**

- 23.1 The City shall pay 100% of the premiums for health and dental benefits described in this MOU for the surviving spouse and any minor children of any member of the LPMO who is killed or dies during the performance of official duties. Premiums will be paid at the current rate in effect at the time of the member's death. Premiums will continue to be paid by the City until such time as the surviving spouse is covered by other insurance or remarries, and for dependent children of the member killed in the line of duty until such time as either:

- (1) the children become adults, or
- (2) the children are covered under other alternative medical coverage provided by and through the surviving spouse or the person who he/she remarries.

**ARTICLE XXIV - TUITION REIMBURSEMENT**

- 24.1 Tuition reimbursement will be provided as stated in the City's current Tuition Reimbursement Policy. The City will not eliminate this policy during the term of this MOU.

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- ¶ 1. Tuition costs, up to a maximum of \$1,804 per fiscal year, to be paid upon the satisfactory completion of course work.¶

- ¶ 2. The full cost of books required for courses taken.¶

¶ The maximum amount reimbursed is based on fees for two courses of study at California State University Sacramento. This maximum amount will be updated annually. A fiscal year is the period between July 1 and June 30. The final date of class shall determine the fiscal year in which that course falls. ¶

¶ This section will be applied toward registration fees at an accredited College or University. Course work must be part of a program of study toward obtaining an Associate of Arts, Bachelors, or any higher degree.¶

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**CHAPTER 3 - LEAVES****ARTICLE XXV - VACATION LEAVE**

- 25.1 Employees hired prior to July 1, 1994 shall receive the following vacation benefits:

Beginning with:

Date of Hire:	3.08 hours per pay period
6th year	4.62 hours per pay period
12th year	5.23 hours per pay period
15th year	6.16 hours per pay period
21st year	6.47 hours per pay period

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22nd year	6.78 hours per pay period
23rd year	7.09 hours per pay period
24th year	7.40 hours per pay period
25th year	7.71 hours per pay period

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25.2 Employees hired after July 1, 1994 shall receive the following vacation benefits:

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Beginning with:

Date of Hire:	3.08 hours per pay period
6th year	4.62 hours per pay period
12th year	5.23 hours per pay period
15th year/above	6.16 hours per pay period

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25.3 Employees promoting into a Mid-Management position will follow the vacation schedule referenced in articles 25.1, or 25.2, depending on their initial employment with the City of Lodi

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25.4 Vacation leave shall be used in increments of not less than quarter hours. Employees may accumulate a maximum of twice the employee's annual vacation accrual. If and when the accrual cap is reached, no additional vacation hours will be accumulated until the employee's vacation usage brings the accumulated number of hours under the cap.

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## ARTICLE XXVI - ADMINISTRATIVE LEAVE

26.1 Employees will be given 80 hours of administrative leave per calendar year, credited in January for purposes of use. Leave shall be taken in increments of not less than quarter hours. Balances must be used prior to December 30 or they will be lost.

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26.2 New employees or employees becoming eligible due to a promotion receive administrative leave on a prorated basis, with six point six seven (6.67) hours granted for each full calendar month remaining in the calendar year with a maximum of 80 hours.

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26.3 Employees separating mid-year will receive a cash pay out for unused Administrative Leave on a prorated basis in accordance with 26.2. Administrative leave used, but not accrued in accordance with 26.2 shall be repaid to City.

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26.4 Employees are eligible to cash out up to 40 hours of their current Administrative Leave balance in any calendar year except in the months of May and June. A request to cash out Administrative Leave must be in writing and submitted to the Finance division.

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## ARTICLE XXVII - HOLIDAYS

27.1 All employees shall receive 135 hours of floating holidays.

27.2 All employees assigned to a 40 hour work week shall observe fixed holidays as shown:

New Year's Day	-	January 1
Martin Luther King Jr. Day	-	3 <sup>rd</sup> Monday in January
Presidents Day	-	3 <sup>rd</sup> Monday in February
Memorial Day	-	Last Monday in May
Independence Day	-	July 4 <sup>th</sup>
Labor Day	-	1 <sup>st</sup> Monday in September
Thanksgiving Day	-	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	-	Friday following Thanksgiving Day
Last Half of Christmas Eve Day	-	December 24 <sup>th</sup>
Christmas Day	-	December 25 <sup>th</sup>

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27.3 Holiday hours shall be taken in increments of not less than quarter hours.

27.4 If holiday time is not used by the end of the calendar year, any remaining hours will be cashed out to the employee in the first pay period in January.

27.5 If hired or separated mid-year, employee shall be credited or debited with fixed holidays remaining plus floating holidays per the following schedule:

Four Floating Holidays:

<u>Month Hired or Separated</u>			<u>Hours added</u>	<u>Hours Subtracted</u>
Jan	Feb	March	40	30
April	May	June	30	20
July	Aug	Sept	20	10
Oct	Nov	Dec	10	0

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## ARTICLE XXVIII - SICK LEAVE

28.1 Sick Leave is earned at the rate of 5.54 hours per pay period with no limit on the amount that can be accrued. Sick leave shall be taken in increments of not less than quarter hours.

## ARTICLE XXIX – FAMILY AND MEDICAL LEAVE

29.1 The City of Lodi will comply with the requirements of the federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA), as defined in California Government Code Sections 12945 et seq. and reflected in the City's Policy and Procedures Manual.

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## ARTICLE XXX - CATASTROPHIC LEAVE



- 30.1 Catastrophic leave is available to employees in accordance with the City's current Catastrophic Leave policy.

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#### **ARTICLE XXXI - BEREAVEMENT LEAVE**

- 31.1 Bereavement leave is available to employees in accordance with the City's current Bereavement Leave policy.

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#### **ARTICLE XXXII – LEAVE OF ABSENCE**

- 32.1 Leave of Absences are available to employees in accordance with the City's current Leave of Absence policy.

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### **CHAPTER 4 - ORGANIZATION/CITY ISSUES**

#### **ARTICLE XXXIII - PROBATION**

- 33.1 Employees have a probationary period of one year. During probation, new hires have the same rights and privileges as regular employees, except that:

- City and employee may mutually agree to an extension of the probationary period up to six additional months.
- Employee serves "at will" and rejection during probation cannot be grieved.

New hires and promotional appointments shall be eligible for a merit increase at the completion of probation.

## **ARTICLE XXXIV - PERSONAL LIABILITY**

34.1 Employees shall be indemnified and held harmless by the City against all costs, legal expenses, and liability arising out of decisions made in their capacity for the City of Lodi and/or from any cause of action for property damage, or damages for personal injury, including death, sustained by person(s) as a result of a decision made in their capacity, except that:

A. The City is not required to but may provide for the defense of an action or proceeding brought against an employee or former employee if the City determines that:

1. The act or omissions was not within the scope of their employment; or
2. They acted or failed to act because of actual fraud, corruption, or actual malice; or
3. The defense of the action or proceeding by the City would create a conflict of interest between the City and the employee or former employee.

B. The City is not required to but may pay any claim of judgment for punitive or exemplary damages under the following circumstances:

1. The judgment is based on an act or omission of an employee or former employee acting within the course and scope of their employment as an employee of the City.
2. At the time of the act giving rise to the liability, the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent best interests of the City.
3. Payment of the claim of judgment would be in the best interests of the City.

## **ARTICLE XXXV- GRIEVANCE PROCEDURE**

35.1 Disputes involving the following subjects shall be determined by the Grievance Procedures established herein:

- A. Interpretation or application of any of the terms of this agreement, including Exhibits thereto, Letter of Agreement, and formal interpretations and clarifications executed by the Association and City.
- B. Disputes as to whether a matter is proper subject for the Grievance Procedure.
- C. Disputes which may be of a "class action" nature filed on behalf of the Association or the City.

35.2 Class action Grievances shall be submitted in writing from the LPMO's President to the City Manager or vice versa.

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35.3 STEP ONE

Discussion between the employee, the Association Representative and the Department Head, who will answer within fifteen work days. This step shall be taken within thirty days of the date of the action complained of, or the date the grievant became aware of the incident which is the basis of the grievance.

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35.4 STEP TWO

If a grievance is not resolved in Step One, Step Two shall be the presentation of the grievance by the Association Representative, in writing, to the City Manager who shall answer, in writing, within fifteen work days of receipt of the grievance, the City Manager's decision shall be final and binding regarding the City's Administrative Process.

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**Deleted:** If a grievance is not resolved in Step One, Step Two shall be the presentation of the grievance, in writing, by the Association Representative to the City Manager, who shall answer, in writing, within fifteen work days of receipt of the grievance. The City Manager's decision shall be final and binding. Step Three shall be taken within fifteen work days of the date of the answer in Step Two.¶

**ARTICLE XXXVI - DISCIPLINARY PROCEDURE**

36.1 Basis: The City may discipline any employee in City service. Discipline may include discharge, demotion, suspension, reduction in pay, or oral or written reprimand. Only regular employees shall have the right to hearing and appeal as described in this section.

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36.2 FLSA Exempt Employees: With respect to employees in classification deemed exempt from the overtime requirements of the Fair Labor Standards Act ("FLSA") disciplinary suspensions pursuant to this policy shall be administered in accordance with the salary basis test under the FLSA's governing regulations.

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36.3 Cause: Causes for discipline of any regular employee shall follow the listing of causes noted in the City's Rules for Personnel Administration, as well as the following causes:

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A. Discrimination, including harassment, against other employees or members of the public on the basis of race, color, national origin, religious creed, ancestry, sex, sexual preference, marital status, age or physical handicap.

B. Unauthorized possession or use of controlled substances or alcohol on City property and/or at the worksite.

**Deleted:** may include, but shall not be limited to the following:

**Deleted:** <#> Improper or unauthorized use or abuse of sick leave.¶  
<#> Excessive absenteeism that prevents reasonable availability for assigned duties.¶

36.4 Persons Authorized to Take Disciplinary Action: Employee discipline may be initiated by the City department head for cause against any employee under his/her supervision. Disciplinary actions in the form of termination or discharge shall be subject to final approval from the City Manager.

¶  
<#> Absence without authorized leave; repeated tardiness to assigned work station; leaving assigned work without authorization; failure to report to work after a leave of absence has expired, or after a leave has been disapproved or revoked.¶

36.5 Notice (except in the case of oral or written reprimand): Notice of Intended Disciplinary Action shall be prepared in writing by the department head or designee proposing the discipline and shall be served on the employee in person or by registered or certified mail. Notice shall be served prior to the action becoming effective; however, where circumstances require immediate removal of the employee from the workplace, notice shall be provided within two (2) working days from the date the employee is removed from the workplace. Employees so removed shall be placed on paid leave pending imposition of discipline. A copy of the Notice of Intended Disciplinary Action shall also

<#> Misconduct; willful or negligent violation of the personnel rules, resolutions, and/or other related ordinances including written departmental rules, regulations, and policies.¶  
<#> Insubordination.¶ ... [16]

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be filed with the Human Resources Director. The written Notice of Intended Disciplinary Action shall contain the following information:

1. The specific type of disciplinary action;
2. The effective date of the action;
3. The specific reason(s) or cause(s) for the actions;
4. Notice that the employee may inspect copies of all materials upon which the action is based, and
5. Notice that the employee has the right to respond orally or in writing within ten (10) days to the department head initiating the disciplinary action. No hearing before the City Manager is available to review oral or written reprimands.

An employee who responds orally or in writing to the department head shall be entitled to meet in an informal conference with the department head or designee and shall be given the opportunity to rebut the charges against him/her or to state any mitigating circumstances. In the case of oral or written reprimand, the department head's decision shall be final. In the case of discharge, demotion, suspension, or reduction in pay, the department head or other City designee shall hear and consider the facts presented by the employee and shall thereafter submit a written recommendation to the City Manager to either impose, rescind or modify the proposed disciplinary action. The recommended proposed disciplinary action shall also be served on the employee. The recommendation shall contain:

6. The specific type of disciplinary action;
7. The specific reason(s) or cause(s) for the actions;

36.6 Final Notice of Disciplinary Action: Following review of the department head's recommendation and the determination by the City Manager, the City Manager shall prepare a Final Notice of Disciplinary Action, advising the employee of the action to be taken, its effective date, and the employee's appeal rights.

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1. Disciplinary action shall become effective on the date stated in the Final Notice of Disciplinary Action, unless the date is otherwise extended by the City Manager.
2. The City Manager shall file a copy of the Final Notice of Disciplinary Action with the Human Resources Director. The Final Notice of Disciplinary Action shall be delivered personally to the employee or shall be sent by registered or certified mail.

36.7 Appeal of Disciplinary Action: In the event of a demotion, suspension or dismissal, and the affected employee is not satisfied with the decision rendered by the City Manager, the employee may appeal the decision. The employee may appeal disciplinary decisions by filing a written appeal with the Human Resources Director within fifteen (15) work days following service of the Final Notice of Disciplinary Action. The written appeal shall contain a written reply to the charges against the employee and written request for an appeal hearing. The employee shall submit a copy of the appeal to the City Manager.

36.8 If an employee submits an appeal, the City shall refer the case to a neutral hearing officer selected through the California State Mediation and Conciliation Services to hear the appeal and submit an advisory decision to the City Manager. Selection of the hearing officer shall be made by the parties' mutually selecting a list of 7 neutral hearing officers from the office of the California State Mediation and Conciliation Services. Absent mutual agreement on a name on the list, the parties will strike names from the list for final selection of the hearing officer. The selected hearing officer shall adhere to the following standard of review and hearing procedures:

1. The appeal hearing shall be informal and strict rules of evidence shall not apply.
2. The parties will have the right to present and cross-examine witnesses, issue opening and closing statements, and file written closing briefs. Witness testimony shall be under oath or affirmation.
3. The hearing officer may exclude testimony or evidence which he/she determines irrelevant or unduly repetitious.
4. Attendance at the appeal hearing shall be limited to those determined by the hearing officer to have a direct connection with the appeal. Witnesses normally would be present at the hearing only while testifying and should be permitted to testify only in the presence of the employee or his/her representatives and the City's representatives.
5. The appeal hearing will be held on the City's premises.
6. In conducting the appeal, the hearing officer's authority/jurisdiction shall be limited to reviewing the factual basis supporting the discipline and determining that the factual basis was reached honestly, after a fair, appropriate and procedurally correct investigation and for reasons that were not arbitrary, discriminatory or pretextual. Should the hearing officer, conducting the review specified above, affirm the factual basis for the discipline decision, he/she may not substitute his/her judgment for that of management's as to the level of discipline imposed. In the event the hearing officer finds that the level of discipline is excessive, he/she may submit an advisory opinion concerning what he/she feels would be the appropriate level of discipline to the City Manager. Should the hearing officer not affirm the factual basis for the discipline, the normal remedy will be to remand the matter to the decision level where the error occurred for reevaluation and/or correction consistent with the hearing officer's findings. In such a case, the hearing officer will have the authority to retain jurisdiction over the appeal to ensure compliance with the remand decision.
7. The cost of the hearing officer shall be borne by the City. The parties will share equally the cost of the court reporter and each side will bear their respective costs of representation.

36.9 Any decision of the City Manager shall be final and binding.

36.10 Judicial review of any decision rendered under this section shall be governed by Code of Civil Procedure section 1094.5.

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3300 et. seq., the appeal procedures in this section shall be deemed to comply with and fully satisfy the right to an administrative appeal under Government Code section 3304.

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36.11 Notwithstanding anything in this MOU, all discipline under this MOU shall conform to the requirements of the Police Officers Bill of Rights.

## **Article XXXVII – CITY RIGHTS**

37.1 It is further understood and agree between the parties that nothing contained in this MOU shall be construed to waive or reduce any rights of the City, which include but are not limited to , the exclusive rights to:

- Determine the mission of its constituent departments, commissions, and boards
- Set standards of service
- Determine the procedures and standards of selection for employment
- Direct its employees
- Maintain the efficiency of governmental operations
- Determine the methods, means, and personnel by which government operations are conducted
- Take all necessary actions to carry out its mission in emergencies
- Exercise complete control and discretion and the technology of performing its work.

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City Rights also include the right to determine the procedures and standards of selection for promotion, to relieve employees from duty because of lack of work or other legitimate reasons, to make and enforce standards of conduct and discipline, and to determine the content of job classifications; provides, however, that nothing herein may be read to extend the term of the MOU nor to supplement negotiations as a means for arriving at terms for a successor MOU.

## **Article XXXVIII – EMPLOYEE REPRESENTATION**

38.1 This Memorandum of Understanding (MOU) is entered into between representatives of the City of Lodi (City) and representatives of the Lodi Police Mid-Management Organization (LPMO).

The parties hereto acknowledge and agree that this MOU constitutes the result of meeting and conferring in good faith as contemplated by Section 3500 et seq., of the Government Code of the State of California, and further acknowledge and agree that all matters upon which the parties reached agreement are set forth herein.

Both parties each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter\_during the course of collective bargaining preparatory to signing this

agreement. The City will meet and confer before changing a policy or rule that is subject to meet and confer under the Meyers-Milias-Brown Act (MMBA).

The terms and conditions of this MOU shall continue in effect during the term of this MOU.

The City and the LPMO agree and understand that if any section of the MOU conflicts with the terms and conditions of employment stated in other authorities, such as personnel rules, administrative policy and procedure, city resolutions, or city ordinances, etc. any ambiguity will be resolved in favor of the MOU language. If the MOU is silent on any issue, the applicable document (i.e. policy manual or rules for personnel administration) is controlling. State and Federal laws will be adhered to.

The City agrees to recognize LPMO representatives for the purpose of representing members of the LPMO on all matters relating to the administration of this MOU, and upon the request of an employee, on adverse actions and other matters which may be or are on appeal in accordance with the discipline article of this MOU.

## **ARTICLE XXXIX - EMPLOYEE RIGHTS**

39.1 The City agrees that all disciplinary actions shall be taken in a timely manner, recognizing that imposing discipline, grieving such discipline, investigations, and criminal proceedings may preclude timely action. This process also includes investigations of the complaint, recommending discipline to the office of the Police Chief, and the imposition of discipline.

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39.2 The City shall abide by the Public Safety Officers Procedural Bill of Rights (Government Code Section 3300 et seq.), and such is hereby incorporated into this MOU.

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39.3 It is understood by both parties that the LPMO, in addition to any other rights herein specified, has the following rights:

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1. To represent its members before the City regarding wages, hours, and other terms and conditions or employment
2. To receive timely written notice of changes to or adoption of any rule or regulation directly relating to wages, hours and other terms and conditions of employment.
3. With an employee's written consent, an authorized LPMO representative shall be permitted, upon request, to inspect the employee's official departmental personnel file during normal business hours. Such review shall not interfere with normal business of the Department.

The City agrees to recognize the LPMO representatives for the purpose of representing employees on all matters relating to the administration of this MOU; and, upon the request of an employee on adverse actions and other matters which may be or are on appeal in accordance with Article XXXVI of this MOU.

39.4 The City agrees to provide each represented employee with copies of special orders, general orders, training bulletins, departmental rules and regulations, and a copy of this MOU.

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39.5 The City agrees not to interfere or in any way discriminate against an employee for exercising his/her right to belong to an employee organization or to exercise his/her rights under this MOU. The LPMO similarly agrees that it will not interfere with or discriminate against employees for exercising rights to belong or refrain from belonging to, supporting, or participating in the activities of an employee organization.

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39.6 Both the City and the LPMO agree that no employee shall be subjected to any discrimination by the City or fellow employees in any matter relating to hiring, promotion, assignment, wages, or conditions or employment because of age, sex, creed, color, or national origin. Alleged discriminatory acts are subject to the City's Policy and Procedure regarding Discrimination, not the grievance procedure.

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## **ARTICLE XXXX – REST PERIOD**

40.1 The intent of the rest period is to ensure that the employee is adequately rested for his/her assigned work shift.

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a. Employees will receive a continuous eight hour rest period immediately preceding or immediately following their scheduled court appearance or other departmental assignment(s), if less than eight hours has elapsed during:

- 1) the time period that employee's regular work shift ends and his/her scheduled appearance/assignment time; or
- 2) the time period that officer is dismissed and his/her regular work shift begins.

This rest period will not be charged to the employee.

b. If an employee receives approval to take the remaining portion of his or her scheduled shift off, the employee's leave balances will be charged for the entire shift (as if no rest period has occurred).

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c. The rest period does not apply when an employee is scheduled for court or appearance/assignment the day immediately following a day off.

## **ARTICLE XXXXI - CHANGES IN THE MOU**

41.1 The City and the LPMO agree to reopen this MOU and to renew Meeting and Conferring on the subjects set forth herein during the term of this MOU in the event that any provision of this MOU is modified by statute or by a competent order of a court in such a way as to affect either the employees or the City. In such event, all remaining provisions of the MOU shall continue in full force and effect unless and until they are also modified by statute or competent order of a court or agreement of the City and the LPMO.



## ARTICLE XXXXII - SEVERABILITY

- 42.1 In the event that any provision of this MOU is found by a court of competent jurisdiction to be invalid, all other provisions shall be severable and shall continue in full force and effect.

## **CHAPTER 5 – WORK HOURS**

### ARTICLE XXXXIII - HOURS OF WORK

- 43.1 Employees shall work a “10-4” plan. Alternate work schedules may be developed and authorized by the Chief of Police.
- 43.2 It is mutually agreed that the City has the sole right to assign personnel, to establish hours of work and work schedules, to make changes to those schedules, to schedule employees off on compensatory time, and to schedule holidays and vacations, all depending on the needs of service.
- 43.3 The City and LPMO mutually agree that split shifts are very stressful and may cause health problems. Consequently, supervisors and managers shall not work split shifts except during cases of an emergency nature.
- 43.4 All employees in the classification of Police Lieutenant or Police Sergeant assigned to Patrol shall select annually, beginning in the month of September, for at least a one year period, their preferred team assignment, days off sequence, holidays, and vacations on the basis of their seniority and the needs of the service. Seniority shall be defined as follows: Total time in service in the classification rank. Should a member of the LPMO leave membership for any reason and return to membership within twelve months, seniority shall be as if the member never left.

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## SCHEDULE A

## Police Mid-Management Positions

Salary, effective 1/1/12

Occupation Title	Step A	Step B	Step C	Step D	Step E
Police Captain	9150.42	9607.93	10088.33	10592.74	11122.38
Police Lieutenant	7625.35	8006.61	8406.94	8827.29	9268.65
Police Sergeant	6354.46	6672.17	7005.78	7356.07	7723.88

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CITY OF LODI . . .  
ADMINISTRATIVE POLICY AND  
PROCEDURE MANUAL

SUBJECT: . . . VACATION LEAVE  
– Policy

DATE ISSUED: . . . April 1, 2004 .

SECTION: . . . V

**SECTION 1: . . . PURPOSE**

. . . . . The purpose of this policy is to  
provide guidance in the implementation  
of vacation leave.

**SECTION 2: . . . ELIGIBILITY**

. . . . . Each probationary and regular  
full-time employee in the classified  
service earns vacation benefits in  
accordance with his/her length of  
continuous service and in accordance  
with the provisions of approved  
memorandum of understanding or  
management pay plan.

. . . . . Provisional, temporary, part-  
time, seasonal, or emergency employees  
shall not accrue vacation.

**SECTION 3: . . . ACCRUAL**

. . . . . Vacation benefits are earned in  
accordance with an employee's  
appropriate memorandum of  
understanding or statement of benefits.

. . . . . Employees earn full vacation  
leave credits for any pay period in which  
they are in a full pay status for the  
equivalent of one-half or more of their  
regularly scheduled work hours. Hours  
of vacation leave are credited at the  
approved rate in accordance with the  
terms of the appropriate memorandum of  
understanding.

. . . . . The maximum amount of  
unused vacation hours that an employee  
may accrue, at any give time is twice the  
employee's annual vacation entitlement.  
Whenever an employee's unused, accrued  
vacation has reached this maximum  
accrual amount, the employee shall stop  
accruing any additional vacation.

Accrual will automatically resume . . . [18]

LODI POLICE MID-MANAGEMENT  
ORGANIZATION

CITY OF LODI  
A MUNICIPAL CORPORATION

Chief Negotiator

Konradt Bartlam, City Manager  
City of Lodi

Date

Date

Jordan Ayers, Deputy City Manager  
City of Lodi

Date

July 1<sup>st</sup>, 2007 a salary survey will be conducted using the formula in section 1.2. Salaries will be increased effective July 1<sup>st</sup>, 2007 based on the survey. (Notwithstanding any changes occurring after the date of this Tentative Agreement, the first year increase will equal 11.7% for Lieutenants. Captains and Sergeants will be calculated as provided in Article 1.3 and 1.4.)

July 1<sup>st</sup>, 2008 a salary survey will be conducted using the formula in section 1.2. If City of Lodi General Fund Revenues increase by 1% or more (using audited revenues for the year ended June 30, 2006 in comparison with audited revenues for the year ended June 30, 2007), then salaries will be increased effective July 1<sup>st</sup>, 2008, based on the survey. If General Fund Revenues do not increase by at least 1%, then LPMO and the City of Lodi will reopen negotiations with regard to salary and benefits.

July 1<sup>st</sup>, 2009 a salary survey will be conducted using the formula in section 1.2. If City of Lodi General Fund Revenues increase by 1% or more (using audited revenues for the year ended June 30, 2007 in comparison with audited revenues for the year ended June 30, 2008), then salaries will be increased effective July 1<sup>st</sup>, 2009, based on the survey. If General Fund Revenues do not increase by at least 1%, then LPMO and the City of Lodi will reopen negotiations with regard to salary and benefits.

July 1<sup>st</sup>, 2010 a salary survey will be conducted using the formula in section 1.2. If City of Lodi General Fund Revenues increase by 1% or more (using audited revenues for the year ended June 30, 2008 in comparison with audited revenues for the year ended June 30, 2009), then salaries will be increased effective July 1<sup>st</sup>, 2009, based on the survey. If General Fund Revenues do not increase by at least 1%, then LPMO and the City of Lodi will reopen negotiations with regard to salary and benefits.

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or three months prior to July 1<sup>st</sup>, 2008 if City revenues do not increase by at least 1% (as per Article 1.6) and three months prior to July 1<sup>st</sup>, 2009 if City revenues do not increase by at least 1% (as per Article 1.7) and three months prior to July 1<sup>st</sup>, 2010 if City revenues do not increase by at least 1% (as per Article 1.8)

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LPMO will dismiss, and pursue no further administrative or legal action regarding its grievance filed in 2007 under its MOU dated July 1, 2006 - June 30, 2007 concerning the Lodi Mid-Management Association's grant of a 4% COLA and whether that action triggered LPMO's "Me Too" clause.

Except as modified herein, all other terms of the MOU shall be the same as those for the LPMO MOU effective July 31, 2003 - June 30, 2007.

Article 35.4 of the LPMO MOU effective July 31, 2003 - June 30, 2007 shall be amended to read as follows:

If a grievance is not resolved in Step One, Step Two shall be the presentation of the grievance by the Association Representative, in writing, to the City Manager who shall answer, in writing, within fifteen work days of receipt of the grievance, the City Manager's decision shall be final and binding regarding the City's Administrative Process.

This Tentative Agreement only represents the tentative agreement of the negotiating parties. In order for it to become binding and effective it must first be approved by the Lodi City Council and the membership of the LPMO.

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to be increased as follows:  
January 1, 2004: Increase to \$950.00

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in the months of March, June, September, and December and shall be for the previous three months

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## **ARTICLE VI- PERFORMANCE INCENTIVE BONUS**

### **Definition**

A Performance Incentive Bonus (PIB) is a monetary reward for meritorious performance above and beyond what is expected and required of all employees who satisfactorily meet the standards of their job.

Said bonus will be \$1,000 for those employees who have completed the service requirements of ten (10) years, and \$2,000 for those employees who have completed the service requirements of twenty (20) years.

Said bonus is not a part of base salary. Receipt of bonus for one year does not affect the following year. Employees must submit a new application for each year they wish to be considered for the PIB.

It is understood that said bonus is discretionary, and based upon meritorious performance as described in the PIB evaluation criteria.

Employees who are granted a PIB by the evaluation committee, will be issued a separate check for the appropriate amount in November of each year of this contract.

#### Eligibility

To be eligible to apply for the bonus, employees must meet the following minimum qualifications:

Employees must have completed at least ten (10) full years of service at the rank of Police Officer or higher with the City of Lodi by the beginning of the preceding time period being evaluated (i.e. to be eligible for consideration in November of 2003, an employee will have to have had to complete ten (10) full years of service by June 30, 2003).

Employees must have, at a minimum, a satisfactory rating in all areas evaluated on the performance evaluation.

Employees must possess an Intermediate Post Certificate.

Employees must have completed at least one Special Assignment or collateral duty assignment.

Employees must not have received discipline issued beyond an oral reprimand or an Employee Performance Observation (EPO).

Employees must not have received a positive drug test.

Employees must be at work at least eight months during the qualifying period.

Employees must have met the above mentioned minimum qualifications by the beginning of the preceding time period being evaluated.

#### Evaluation of Applications (Process)

The PIB process will consist of a committee evaluation, conducted on a annual basis and will be based upon the preceding year's evaluation (July-June), and the events, activities, and actions during the same time period.

The LPMO and Police Chief will mutually agree upon the composition of the evaluation committee.

Applications for a PIB must be made in writing on the designated application form within the time period allotted by the evaluation committee.

Applicants will be evaluated only upon written documentation including but not limited to what is provided in applicants' application, their performance evaluation and any actions and events during the rating period including but not limited to the following: attendance, disciplinary actions, service awards, commendations, etc.

The decision of the committee will be relayed to each applicant in writing. The vote of the committee shall be in confidence. Members of the committee are obligated to maintain confidentiality in respect to all committee processes including voting. No committee member shall disclose to any person outside the committee any discussion of the committee or information on voting or specific votes of committee members.

The decision of the evaluation committee to grant or deny a PIB is final and binding, may not be appealed, and is not subject to any grievance procedure.

## **ARTICLE XVIII - EXECUTIVE PHYSICAL EXAMINATION**

Employees may elect to receive an annual executive physical examination in accordance with the provisions of the City's medical insurance plan to include any and all of the following procedures as applicable and as deemed necessary by the employee's physician:

- A complete office examination
- Urinalysis
- Pap smear
- EKG (resting)
- An executive blood panel
- Mammogram
- Chest X-ray

Employees shall be reimbursed for costs not covered by the medical insurance for the procedures referenced in 18.1 only. Any additional tests judged necessary shall be the responsibility of the employee. Employees must submit all related receipts, attached to a claim voucher, to the Finance Department for reimbursement.



Improper or unauthorized use or abuse of sick leave.

Excessive absenteeism that prevents reasonable availability for assigned duties.

Absence without authorized leave; repeated tardiness to assigned work station; leaving assigned work without authorization; failure to report to work after a leave of absence has expired, or after a leave has been disapproved or revoked.

Misconduct; willful or negligent violation of the personnel rules, resolutions, and/or other related ordinances including written departmental rules, regulations, and policies.

Insubordination;

Acceptance of gifts or gratuities in connection with or relating to the employee's duties.

Conviction of a felony or misdemeanor involving moral turpitude. A plea or a verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction.

Fraud or the submission of false information related to employment application, payroll, or any work-related record or report.

Soliciting outside work for personal gain during the conduct of City business; engaging in outside employment for any business under contract with the City; or participating in any outside employment that adversely affects the employee's City work performance; or conducting personal business on City time.

Discourteous treatment of the public or City employees or disorderly conduct on City property or on City business including fighting, or using profanity, intimidation, abusive or threatening language.

Conduct that interferes with the reasonable management, operation and discipline of the City or any of its departments or divisions or failure to cooperate with superiors or fellow employees.

Engaging in political activities while on duty, in uniform or using the authority associated with City employment.

Violation or neglect of safety rules or practices.

Behavior, either during or outside the duty hours, which is of such a nature that it causes discredit to the City or one of its operating services.

Discrimination, including harassment, against other employees or members of the public on the basis of race, color, national origin, religious creed, ancestry, sex, sexual preference, marital status, age or physical handicap.

Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform or complete assigned tasks or training, in a prompt, competent, and reasonable manner.

Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable trial period.

Refusal to accept and carry out reasonable and proper assignment from an authorized supervisor.

Unauthorized possession or use of controlled substances or alcohol on City property and/or at the worksite.

Intoxication, intemperance, or incapacity due to the use of controlled substances or alcohol while on duty.

Failure to obtain or maintain possession of the minimum qualifications for the position.

Careless, negligent, or improper use of City property, equipment or funds, including unauthorized removal, or use for private purpose, or use involving damage or unreasonable risk of damage to property.

Unauthorized release or use of confidential information or official records.

Participation in an illegal strike, work stoppage, slowdown, or other job action against the City.

Inability to perform the duties of his/her job.

Dishonesty.

Sleeping on the job.

Theft.

Retaliation for actions protected by law.

Failure to report loss of or damage caused to City equipment and/or facilities for which the employee was responsible.

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## **ATTACHMENT B**

### **CITY OF LODI ADMINISTRATIVE POLICY AND PROCEDURE MANUAL**

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**SUBJECT:**

**VACATION LEAVE – *Policy***

DATE ISSUED: April 1, 2004

SECTION: V

SECTION 1: PURPOSE

The purpose of this policy is to provide guidance in the implementation of vacation leave.

SECTION 2: ELIGIBILITY

Each probationary and regular full-time employee in the classified service earns vacation benefits in accordance with his/her length of continuous service and in accordance with the provisions of approved memorandum of understanding or management pay plan.

Provisional, temporary, part-time, seasonal, or emergency employees shall not accrue vacation.

SECTION 3: ACCRUAL

Vacation benefits are earned in accordance with an employee's appropriate memorandum of understanding or statement of benefits.

Employees earn full vacation leave credits for any pay period in which they are in a full pay status for the equivalent of one-half or more of their regularly scheduled work hours. Hours of vacation leave are credited at the approved rate in accordance with the terms of the appropriate memorandum of understanding.

The maximum amount of unused vacation hours that an employee may accrue, at any give time is twice the employee's annual vacation entitlement. Whenever an employee's unused, accrued vacation has reached this maximum accrual amount, the employee shall stop accruing any additional vacation. Accrual will automatically resume once the employee uses some vacation and the accrual balance falls below the maximum accrual amount.

Under extenuating circumstances, requests to accrue vacation leave over the maximum may be authorized by the City Manager. Requests must be; a) submitted in writing, b) include justification for the exception, and c) be recommended for approval by the Department Head. The City Manager has sole discretion to approve or deny such requests.

#### SECTION 4:

#### SCHEDULING

Dates of vacation may be requested by the employee, but are subject to the approval of the Department Head. Approval of vacation leave is at the discretion of the Department Head given considerations such as departmental procedures for request and approval, workloads, scheduling, seniority, and in accordance with terms of the appropriate memorandum of understanding.

#### SECTION 5:

#### UTILIZATION

After six (6) months of continuous service, an employee may request utilization of vacation leave.

Vacation leave may be taken in quarter hour increments. Employees are not permitted to take vacation leave in excess of their accumulated balance.

Employees on vacation leave shall be considered in full-pay status, and continue to accrue seniority, sick leave, and vacation leave credit.

#### SECTION 6:

#### HOLIDAYS FALLING DURING VACATION

When a holiday or day observed in lieu of a holiday occurs on a day on which an employee is taking vacation such employee shall not be charged as using vacation for that day. The employee's compensation for that day shall be holiday and he/she shall not be paid or charged for vacation.

#### SECTION 7:

#### ILLNESS OR ACCIDENT DURING VACATION

An illness or accident during a regularly approved and scheduled vacation period may be converted to sick leave when the following action is taken:

The employee, immediately upon return to duty, submits to his/her Department Head a written request for sick leave and, if requested, a written statement signed by the employee's attending physician certifying to the nature and dates of the employee's physical disability.

#### SECTION 8:

#### COMPENSATION FOR VACATION LEAVE UPON SEPARATION FROM SERVICE

An employee who leaves City employment shall be compensated at his/her current rate of pay for vacation accrued but not taken up to the date of termination.

Employees planning their resignation or retirement may request permission to take a terminal vacation to the limit of their accumulated vacation leave balances. Such planning involves the submission of a written request to the Department Head for approval.

SECTION 9:  
LEAVE

CHARGEABLE ABSENCES TO VACATION

Other than for the purposes of taking a vacation, an employee may elect to charge an approved leave of absence to vacation leave. Such absences are subject to approval from an employee's Department Head, and in accordance with the City of Lodi Administrative Policy and Procedure for Leave of Absence and the appropriate memorandum of understanding.



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## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving City of Lodi Risk Management and Compliance Program

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Electric Utility Director

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**RECOMMENDED ACTION:** Adopt a resolution approving City of Lodi Risk Management and Compliance Program.

**BACKGROUND INFORMATION:** The City Council established a Risk Oversight Committee (ROC) on January 18, 2006 to ensure compliance with the City's Energy Risk Management Policies (ERMP).

Requirements imposed on the City for the Electric Utility Department by the North American Electric Reliability Corporation and the Western Electricity Coordinating Council requires an internal compliance program. Staff recommends incorporating internal compliance requirements into the ERMP with oversight by the ROC.

The existing ERMP has been revised to incorporate these requirements and is titled "City of Lodi Risk Management and Compliance Program" (RMCP), see Attachment A. The revised document also incorporates indirect purchases through the Northern California Power Agency of electric energy, capacity, generator fuel, transmission, transportation, storage, renewable energy credits, greenhouse gas offsets, resource adequacy capacity and ancillary services to meet the City's service obligations in amounts and for such quantities as are: 1) necessary to meet the minimum amounts called for in ROC's laddering strategy; 2) consistent with the ERMP; and 3) approved by the ROC. Purchases outside the authority granted above may be authorized by specific City Council resolution which may specify the limits of the authority delegated, including the maximum dollar amount of the authority and the duration of the contracts and/or transactions that may be executed.

On March 19, 2012 the ROC discussed and approved the proposed RMCP. Staff recommends rescinding Resolution No. 2011-06 and adopting the attached resolution approving the ERMP.

**FISCAL IMPACT:** Not applicable.

**FUNDING:** Not applicable.

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Elizabeth A. Kirkley  
Electric Utility Director

**PREPARED BY:** Kevin Riedinger, Electric Operations Superintendent  
EK/KR/lst

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager

RESOLUTION NO. 2012-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
RESCINDING RESOLUTION NO. 2011-06, AND  
FURTHER APPROVING THE CITY OF LODI RISK  
MANAGEMENT AND COMPLIANCE PROGRAM

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby rescind Resolution No. 2011-06, and further approves the City of Lodi Risk Management and Compliance Program, as shown on Exhibit A attached hereto and made a part of this Resolution.

Dated: April 4, 2012


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I hereby certify that Resolution No. 2012-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2012, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES: COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk


2012-\_\_\_\_\_

		<b>City of Lodi Risk Management and Compliance Program</b>	
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## 1 Purpose

The purpose of this Risk Management and Compliance Program (“Program”) is to foster a culture of compliance and control for the City of Lodi (“City”) Electric Utility Department (“EUD”). The Program expects a high level of compliance to regulations, laws, and the City’s agreements, policies and procedure while managing risks on a routine basis. The Program is laid out to control the organization’s activities so that controlling risk and compliance are part of the City’s infrastructure.

## 2 Scope


This Program outlines the City’s internal control foundation, providing discipline and structure to guide compliance with regulations, laws, and the City’s agreements, procedures and policies. It includes a cross-section of knowledgeable and skilled employees who are responsible to oversee, communicate, track, document, and monitor compliance and risk management and share the results with management and the City Council.

The Program applies to all the City’s employees, contractors, and vendor personnel responsible for complying with regulations and the City’s policies and procedures. It is made readily available to all employees.

## 3 Mission Statement/Statement of Commitment

The City’s compliance mission is to create a superior and effective program to manage risk and compliance which implements best electric utility practices and encourages a culture of compliance and control throughout the EUD. The City implements all opportunities to build compliance and controls into every business practice and to continuously improve its program to be robust, rigorous and transparent.

The City is committed to complying with all applicable laws and regulations. In addition, the City is committed to prudent risk management and compliance awareness and continuous improvement of processes and procedures. This commitment allows the City to develop and maintain an organizational culture that supports staff in meeting these concerns through education/training, ethical conduct, decision making, and a culture of transparency.


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#### 4 Goal

The goal of this Program is to create a culture of compliance and control within the daily activities that is characterized by clear communication, consistent documentation and implementation of the following practices:

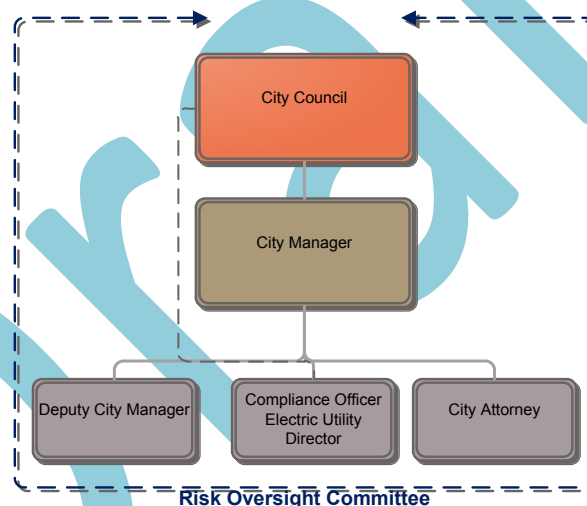
Step	Description
1.	Creating a culture of accountability.
2.	Adopting reporting procedures to party's manager, the Risk Oversight Committee (ROC) and the City Council.
3.	Identifying and communicating specific concerns and opportunities for improvement.
4.	Reviewing and developing goals that ensure a strong corporate commitment to compliance and control.
5.	Conducting regular training and awareness programs.
6.	Assessing the Programs for adequacy and providing recommendations to address planning, auditing and budget issues.
7.	Using appropriate communication among all parties involved with the Program.
8.	Identifying and assigning responsibilities to the key individuals who are accountable for applicable portions of the Program.
9.	Providing a documentation framework that supports compliance, and includes clear processes, policies, and procedures.
10.	Creating a culture of continuous improvement through regular assessments and corrections. These assessments may be self-assessments, internal audits, and independent third-party assessments.
11.	Adhering to approved regulatory requirements.
12.	Cooperating with regulatory agencies.
13.	Promptly assessing and reporting of potential violations to regulatory agencies, if required.

#### 5 Organizational Structure and Chart

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The Program is overseen by the ROC which is comprised of the City Council member who serves as a Northern California Power Agency (“NCPA”) commissioner or alternate, the City Manager, Deputy City Manager, City Attorney and the Electric Utility Director; or in the case of their absence, their designees. The City Manager shall appoint the chair of the ROC. Additional non-voting members may be invited to participate on the ROC based on supporting expertise required by the ROC.

The ROC shall meet three to six months, or as otherwise called to order by the City Manager or City Council. The ROC shall keep minutes of all meetings and business transacted and shall appoint one of its members, or that member’s designee, to perform this task. A quorum for the ROC to do business shall consist of all members or their designees. The ROC shall request attendance at its meetings by, and/or reports from, other persons as appropriate.



### City Council

The City Council is responsible for making high-level, broad policy and strategy statements as contained in this document. The City Council sets the policy, and adopts the Program as developed and recommended by the ROC and delegates the City Manager to execute it. The City Council will review the Program every year. Additionally, the City Council will receive reports every three to six months from the City Manager regarding risk management activities. . The City Council reviews the Program updates on a regular basis and provides direction and additional support, as needed.

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### **Risk Oversight Committee**

The ROC shall have the responsibility for ensuring that business is conducted in accordance with the Energy Risk Management Policies in Section 7. The ROC shall adopt and bring current risk management business practices, defining in detail the internal controls, strategies and processes for managing risks associated with the adoption of those business practices; including but not limited to a Laddering Strategy. As used herein the term Laddering Strategy shall mean an objective and graduated program to secure varying percentages of the City's projected future power needs at any given point in time. Determination of regulatory non-compliance and direction to self-report such non-compliant activities shall be made by the ROC. The ROC shall recommend to the City Council the categories of transactions permitted and set risk limits for those transactions.

### **City Manager**

The City Manager has overall responsibility for executing and ensuring compliance with policy adopted by the City Council. The City Manager shall make regular reports to the City Council regarding business transacted by the ROC at such intervals and/or upon such occasions as the City Council shall direct. Reports shall be provided every three to six months to the City Council regarding energy risk management activities.

### **Electric Utility Director - Compliance Officer**

The Electric Utility Director is the utility's Executive Officer. acts as the Compliance Officer for the EUD, and is a voting member of the ROC. The Electric Utility Director has access to the City Council through the City Manager. This ensures communication of compliance concerns to the highest levels within the organization. Records of communication and reporting between the City Council and the City Manager are stored for at least 48 months.


### **Electric Utility Department**

The EUD shall participate on the ROC through the Electric Utility Director. The Electric Utility Director shall provide load forecast information and coordinate the receipt and dissemination of relevant market and transactional information undertaken on the City's behalf through NCPA.

### **Finance Department**

The Finance Department shall participate on the ROC through the Deputy City Manager and provide accounting and cash flow information to the ROC.

### **Legal Department**

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The Legal Department shall participate on the ROC through the City Attorney and provide legal advice and representation and ensure that business is carried out in compliance with all applicable laws, regulations executive orders and court orders.

**Specific responsibilities for some positions are further described in Attachment A.**

## **6 Leadership Support**

This Program, as approved by the City Council, has the support and participation of all senior management. Senior management reviews related reports, participates in meetings, and communicates to employees about their commitment to compliance formally and informally. During ROC meetings, status updates are provided, any instances of potential non-compliance are discussed and support is provided. ROC meeting minutes and agendas are stored for at least 48 months.

## **7 Energy Risk Management Policies (“ERMP”)**


The purpose of the Program and ERMP is to ensure that risks associated with the City’s bulk power procurement is properly identified, measured and controlled. The ROC manages the Program.

The ROC meets every three to six months, or as otherwise called to order by the City Manager or City Council. The ROC keeps minutes of all meetings and transacted business and appoints one of its members, or that member’s designee, to perform this task. A quorum for the ROC to do business consists of all members or their designees. The ROC requests attendance at its meetings by, and/or reports from, other persons as appropriate. The City Manager makes regular reports to the City Council regarding business transacted by the ROC at such intervals and/or upon such occasions as the City Council directs.

### **7.1 Scope of the Risk Management Policies**

The risk management policies are applied to all aspects of the City’s wholesale procurement and sales activities, long-term contracting associated with energy supplies, including generator fuel, capital projects and associated financing related to generation, transmission, transportation, storage, Renewable Energy Credits (“REC”), Green House Gas (“GHG”) offsets, Resource Adequacy (“RA”) capacity, ancillary services and participation in Joint Powers Agencies (“JPA”) and regulatory compliance as set forth in exhibit B to this policy.

This Program does not address the following types of general business risk, which are treated separately in other official policies, ordinances, and regulations of the City: fire,

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accident and casualty, health, safety; workers compensation and other such typically insurable perils.

## 7.2 Program Objectives

1. Maintain a regularly updated inventory of risks that could impact rates and security of the City's bulk power procurement program.
2. Establish risk metrics and reporting mechanisms that provide both quantitative and qualitative assessments of potential impacts to rate stability.
3. Adopt business practices that encourage compliance, development of appropriate levels of operating reserve funds, contribute to retail rate stability and maintain appropriate security for established funds.
4. Minimize the City's electric utility rates.

## 7.3 Program Strategies

1. Identify, measure, and control risks that could have an adverse effect on retail rate stability.
2. Assign risk management responsibilities to appropriately qualified individuals and committees for each of these risks.

## 7.4 Risk Inventory

The EUD must inventory and address the following categories of risk as a component of the monitoring and reporting under the risk management program:


- Price Risk
- Volume Risk
- Credit Risk
- Operational Risk
- Contingent Liabilities

**Price Risk** – Price risk is the risk associated with the change of power costs and can be segmented into two categories:

1. Wholesale prices may increase while positions are still open.
2. Wholesale prices may decrease after positions are closed.

**Volume Risk** – Volume risk is the risk that demand for power will either fall below or exceed then existing contracted power supplies.



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**Credit Risk** – Credit risk is the risk associated with entering into any type of transaction with a counterparty, and can be segmented into the following five categories:


1. Counterparties fail to take delivery of, or pay for, energy sold to them.
2. Counterparties fail to deliver contracted for energy.
3. Counterparties, refuse to extend credit or charge a premium for credit risks.
4. Counterparty transactions are too concentrated among a limited number of suppliers.
5. Inability to finance capital projects or meet financial obligations incurred in the course of wholesale operations.

**Operational Risk** – Operational risk consists of the risk to effectively planned, executed or controlled business activities. Operational risk includes the potential for:

1. Inadequate organizational infrastructure, i.e., the lack of sufficient authority to make and execute decisions, inadequate supervision, absence of internal checks and balances, incomplete and untimely planning, incomplete and untimely reporting, failure to separate incompatible functions, etc.
2. Absence, shortage or loss of key personnel.
3. Lack or failure of facilities, equipment, systems and tools such as computers, software, communications links and data services.
4. Exposure to litigation, fines, or sanctions as a result of violating laws and regulations, not meeting contractual obligations, failure to address legal issues and/or receive competent legal advice, not drafting contracts effectively, etc. Exposure includes the fines and litigation associated with the North American Electric Reliability Corporation (“NERC”) and/or Western Electricity Coordinating Council (“WECC”) and environmental compliance violations.
5. Errors or omissions in the conduct of business, including failure to execute transactions, violations of guidelines and directives, etc.

**Contingent Liabilities** – Contingent liabilities consist of liabilities that the City could incur in the event of the failure of other parties to discharge their obligations. At present, these consist of three principle categories:

1. Guarantees and step up provisions in the enabling agreements for the JPAs of which the City is a member.

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2. Project closure, decommissioning, environmental remediation and other obligations which result from the City's own activities and from JPA projects and activities.
3. Provisions for take or pay, termination payments and/or margin calls in the City's long-term electric power supply agreements.

## 8 Transaction Limits and Controls

The EUD utilizes transaction limits and controls to mitigate or prevent exposure to identified risks.

### 8.1 Regulatory Compliance


Regulatory compliance controls includes both soft and hard controls. Soft controls includes self-audits, policies and procedures. Hard controls include automated due date calendared reminders, forms with mandatory fields for collecting evidence, and self-assessments.

### 8.2 Indirect Purchases (NCPA)

The City Manager and the Electric Utility Director are severally authorized to enter contracts for the purchase through NCPA of electric energy, capacity, and generator fuel, transmission, transportation, storage, RECs, GHG offsets, RA capacity and ancillary services to meet the City's service obligations in amounts and for such quantities as are: 1) necessary to meet the minimum amounts called for in ROC's Laddering Strategy; 2) consistent with this ERMP; and 3) approved by the ROC. Purchases outside the authority granted above may be authorized by specific City Council resolution. The resolution may specify the limits of the authority delegated, including the maximum dollar amount of the authority and the duration of the contracts and/or transactions that may be executed.

In addition, for purchases through NCPA, counterparty credit limits and minimum counterparty rating criteria shall be described in NCPA's then current "Energy Risk Management Policy", which are made a part of this document, and the most recent is attached hereto and may also be found at <http://www.ncpa.com/financial-information/5.html>. Moreover, the City Manager and Electric Utility Director are authorized to purchase electric energy, capacity and fuel to meet the City's share of amounts called for under NCPA's then current Energy Risk Management Policy upon approval of the ROC. Material changes to NCPA's Energy Risk Management Policy are reported to the City Council as part of the quarterly reporting under the City's ERMP.

### 8.3 Direct Purchases

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The City Manager and the Electric Utility Director are severally authorized to enter contracts for the direct purchase of electric energy, capacity generator fuel, transmission, transportation, storage, RECs, GHG offsets, RA capacity and Ancillary Services to meet the City's service obligations in amounts and for such quantities as are: 1) necessary to meet the minimum amounts called for in ROC's Laddering Strategy; 2) consistent with this ERMP; and 3) approved by the ROC. Purchases outside the authority granted above may be authorized by specific City Council resolution. The resolution may specify the limits of the authority delegated, including the maximum dollar amount of the authority and the duration of the contracts and/or transactions that may be executed.


For contracts executed directly by the City, the City uses standardized form contracts for the such procurement, including, but not limited to form contracts created and copyrighted by the Edison Electric Institute, the Western States Power Pool, the California Department of General Services, and the North American Energy Standards Board, unless waived by resolution of the City Council. Counterparties shall obtain and maintain during the terms of the contract, the minimum credit rating established as of the date of award of the contract of not less than a BBB-credit rating established by Standard and Poor's and a Baa3 credit rating established by Moody's Investors Services, unless waived by resolution of the City Council.

#### **8.4 All Purchases:**

Any City Council resolution or ROC recommendation authorizing the City Manager or Electric Utility Director to contract for electricity shall specify generally at least the following terms and conditions and the description of energy and energy services to be procured, including, but not limited to, a fixed or formula price, energy and ancillary services to be included; term, specifying a not-to-exceed period of time; period of delivery denoted in years or months and whether deliveries are on-peak or off-peak; and the point of delivery on the locus on the interstate transmission system on which the delivery is made.

Any City Council resolution or ROC recommendation authorizing the City Manager or Electric Utility Director to contract for generator fuel shall specify generally at least the following terms and conditions; quantity and the description of fuel services to be procured, including but not limited to scheduled fuel and fuel transportation services, specifying a not-to-exceed period of time; period of delivery denoted in years or months or years and months; and point of delivery of the locus on the interstate transportation system at which the transfer of title is made.

All procurement of electricity and generator fuel by contract shall conform to the requirements of the ERMP.

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## 8.5 Prohibited and Authorized Transaction Types

### 8.5.1 Prohibited Transaction Types:

Speculative buying and selling of energy products is prohibited. Speculation is defined as buying energy products that are not needed for meeting forecasted obligations, selling energy products that are not owned and/or selling energy products that are not surplus without simultaneously replacing that energy product at a lower cost. In no event shall transactions be entered into to speculate on the changes in market prices.

### 8.5.2 Authorized Transaction Types:

1. Purchase capacity, RECs or REC types, or energy to meet the City's obligations above what is expected to be generated or purchased from owned generating facilities or contracts.
2. Sell existing capacity, RECs or REC types, or energy that is expected to be in excess of the City's obligations.
3. Purchase generator fuel that is expected to be needed to run owned generating facilities.
4. Sell surplus generator fuel if more economic energy is available for purchase, becomes surplus due to load being lower than previously forecasted, or due to increased energy due to hydrological conditions.
5. Execute financial transactions to fix the price of variable commodity purchases or sales.
6. Purchase simple call options or collars to limit price exposure on short generator fuel or electricity positions.
7. Sell simple call options or tolling agreements on owned generating facilities that are expected to be in excess of the City's obligations.
8. Purchase or sell emission allowances, including GHG offsets, deemed necessary to comply with regulations for owned generating facilities.
9. Purchase or sell, firm transmission rights or congestion revenue rights to manage congestion price risk.
10. A purchase/sale of energy at the California Oregon Border and an offsetting sale/purchase of energy at North Path 15 ("NP15") to take advantage of City-owned transmission capacity rights.
11. A purchase of generator fuel and a sale of energy to take advantage of excess owned generating facilities.

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12. A sale of generator fuel and a purchase of electricity to take advantage of market heat rate.

13. Exercise costless collars.

## 9 Resources

The City is dedicated to making the best use of all appropriate resources from all applicable entities as part of the Program. The City is committed to addressing all areas of high risk through the use of its own resources to improve its robust, rigorous and transparent Program.

The City Council has approved sufficient funding for the administration of the Program. The requirements of this Program are budgeted and fully staffed on a year-round basis.

## 10 Employee Incentives

### Personal Performance

Regulatory compliance is incorporated into applicable employee personal performance assessments. Employees are recognized by their management and among their peers for identifying opportunities for improving the Program.

## 11 Compliance Enforcement

Compliance exceptions are actions, which violate the authority limits, requirements or directives set forth in the ERMP. All exceptions shall be reported immediately to the City Manager and quarterly to the City Council in the quarterly exception report.

Willful violations of the ERMP will be subject to review and may be cause for discipline or dismissal.


Such disciplinary action may include written notices to the individual involved that a violation has been determined, demotion or re-assignment of the individual involved and suspension with or without pay or benefits. Violations may also constitute violations of law and may result in criminal penalties and civil liabilities for the offending covered party and the City.

## 12 Reporting

Reports are provided by the City Manager to the City Council, every three to six months, regarding risk management activities, such as the City's forward purchases, market exposure, credit exposure, transaction compliance and other relevant data.

### Management and Council Reports include but are not limited to:

1. Load and resource balances as forecast and adopted in the current operating year's

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- budget (including regulatory, state and federally mandated resource balances).
2. Load and resource balances as adjusted due to operating conditions or purchases occurring during the quarter.
  3. An assessment of market exposure.
  4. An assessment of the quarterly change in power supply cost from budget.
  5. Credit exposure by counterparty.
  6. A summary of any purchases made during the quarter.
  7. An assessment of any counterparty credit problems.
  8. NERC/WECC Compliance program status.

Other reports are provided to the City Council on request.

### **13 Compliance Communications**

Company employees have various means in which to report business conduct issues including potential violations of regulatory requirements. Break room posters provide contact information.

### **14 Lessons Learned**

Any lessons learned from audits, violations, other similar entity violations, or near misses are encouraged to be shared with all staff. Lessons learned are shared regularly with staff and in employee training programs. This includes lessons learned provided by regulatory authorities, other industry members, and discovered within the City's business practices.


#### **14.1 Compliance Communications Protection for Whistleblowers**

The City staff is encouraged to come forward with evidence to their manager that the City may be violating a law or regulation. Communication of potential violations plays a pivotal role in the detection, investigation, and prevention of violations. No employee will receive any type of retribution for speaking out on compliance issues of any type.

The City staff, contractors, and the public are encouraged to report evidence of possible compliance violations, unethical business conduct, questionable operations, problems with compliance controls, reporting or auditing concerns, and violations of laws or regulations. The City will promptly investigate all complaints and attempt to maintain the whistleblowers anonymity. Complaints may be made through the suggestion box, to the employee's supervisor, to the employee's manager or director.

The City employs a hotline that allows for anonymous reporting.

### **15 Program Review/Evaluation/Modification/Distribution**


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The Program is designed to ensure that reporting parties report to their supervisors, the Electric Utility Director to promote, maintain, and monitor compliance; 2) to discuss the effectiveness of the Program; and 3) evaluate alignment of the Program and the City's organization. Interim to the annual review, the Program will be reviewed and modified as necessary if:

- An event analysis determines that a modification to this program would be beneficial.
- The City experiences a regulation violation.
- Lessons learned or changes have been identified in best practices.
- Any significant changes to the Program are approved by the City Council. Minor changes are approved by the ROC.

New revisions of the Program are distributed to all parties involved and comments are solicited from the ROC. The City employees are informed of new significant revisions, including contractors and vendors as applicable, and they will all have access to the current Program.




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Attachment A

**Risk Management and Compliance Program  
Responsibilities**

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## 16 Risk Oversight Committee

The ROC has the responsibility for following:

1. Ensure that business is conducted in accordance with the Program and the ERMP.
2. Adopt and bring current risk management business practices, defining in detail the internal controls, strategies and processes for managing risks associated with the adoption of those business practices; including but not limited to a Laddering Strategy. As used herein the term Laddering Strategy shall mean an objective and graduated method to secure varying percentages of the City's projected power needs at least three years into the future at any given point in time. Recommend to the City Council the categories of transactions permitted and set risk limits for those transactions.
3. Regularly assess risk and monitor exposures.
4. Evaluate effectiveness of controls.
5. Determine if non-compliance has occurred and take proper actions.
6. Review and provide input to the NERC/WECC Compliance Program.
7. Address cross-functional planning, auditing and budgeting issues.
8. Notify the City Human Resources department and the Electric Utility Director of performance issues and individual actions pertaining to compliance with applicable laws and regulations.
9. Communicate Program updates/changes to all parties involved.
10. Manage compliance issues reported through the Internal Hotline.
11. Review status reports.
12. Provide status updates to the City Council.
13. Obtain City Council approval of Program modifications.

## 17 Electric Utility Director (NERC Compliance Officer)


1. Oversee the execution of the NERC Internal Compliance Program (ICP).
2. Approve all required procedures and assessments (i.e. critical infrastructure assessment, etc.).
3. Review status reports, industry updates, and compliance meeting notes (NERC, WECC, environmental).

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4. Provide input to and approve the risk assessment and control plan.
5. Continually assess the effectiveness of the ICP.
6. Communicate operational and regulatory compliance issues to the ROC.
7. Prioritize and oversee corrective actions.
8. Make recommendations on any disciplinary action.
9. Identify Subject Matter Experts ("SME") for various risk related projects, and assign responsibility and authority supported at the appropriate departmental level. Monitors compliance status by reviewing self-assessments and other reporting activities.
10. Manage and sign-off on audits and the audit process, NERC self-certifications, and annual self-assessments.
11. Track, approve and oversee implementation of compliance mitigation plans to completion.
12. Create and manage NERC/WECC Reliability Standards working teams, as required.
13. Assign staff responsible for participating in and influencing the development and revision of NERC/WECC Reliability Standards.
14. Direct and review internal audits, self-assessments and third party assessments/audits and City Council reports.

#### **18 Electric Operations Superintendent (NERC Compliance Director)**


1. Report to the Electric Utility Director.
2. Act as business partner to NERC/WECC Compliance Administrator to ensure compliance and accurate reporting.
3. Provide regular compliance updates to the Electric Utility Director.
4. Along with Compliance Administrator, act as the liaison between the California Independent System Operator ("CAISO") and PG&E for NERC and WECC regulatory compliance reporting requirements. Ensure that no reliability obligation is missed or overlooked, identify the responsible entity and assign the SMEs for each requirement of the NERC and WECC reliability standards.
5. Along with the Compliance Administrator consolidates documentation to ensure that the reliability obligation is met.

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6. Review and monitor progress and status of action plans, milestones, and deadlines provided by the NERC/WECC Compliance Administrator or responsible department managers.
7. Implements compliance mitigation plans to completion and reports the status to the Electric Utility Director.
8. Assess adequacy and make recommendations to the Electric Utility Director to address cross-functional planning, auditing and budgeting issues.
9. Review compliance meeting notes, status reports, and industry updates.
10. Manages City actions and documents for participating in and influencing the development and revision of NERC/WECC Reliability Standards.

**19 As assigned or contracted (NERC Compliance Administrator)**

1. Assigned by the Compliance Officer
2. Serve as the NERC/WECC Reliability Standards SMEs.
3. Attend, as determined by the Electric Operations Superintendent, Federal Energy Regulatory Commission ("FERC"), NERC and WECC conferences and workshops associated with Reliability Standards and prepare meeting notes for City review.
4. Share best practices with the Electric Operations Superintendent and Electric Utility Director to improve process efficiencies and effectiveness.
5. Monitor pending and approved changes to the NERC/WECC Reliability Standards and report those changes to the Electric Operations Superintendent.
6. Coordinate NERC/WECC Standards Authorization Request comments and seek the SMEs, Electric Operations Superintendent, and Electric Utility Director reviews and approvals prior to submitting.
7. Notify the SMEs of changes or additional information related to Standards in their areas of responsibility.
8. Develop and maintain a consistent framework for compliance to NERC/WECC Standards and ensure compliance processes are maintained.
9. Provide NERC/WECC compliance related internal training and awareness programs throughout the organization and notifications of external training opportunities related to Reliability Standards. Develop and provide notes to the Electric Operations Superintendent.
10. Develop and provide SMEs training for NERC/WECC standard compliance.

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11. Assist with the evaluation of NERC Compliance risks and recommend controls.
12. Verify sufficient processes are in place to ensure NERC/WECC compliance with applicable Reliability Standards.
13. Coordinate and assist with the development and revisions to NERC/WECC compliance policies, processes, and procedures.
14. Recommend and assist to oversee NERC and regional Compliance Working Groups where cross – functional cooperation is required.
15. Monitor to assure NERC/WECC related policies, processes, and procedures for all applicable Reliability Standards are reviewed and updated in a timely manner.
16. Prepare the City for NERC/WECC audits and act as the lead contact for all NERC/WECC audits.
17. Monitor the status of SMEs, deadlines leading up to NERC/WECC self-certification, spot checks, audits and action plan milestone due dates and report the results to the Electric Operations Superintendent.
18. Immediately report NERC/WECC Standards vulnerabilities, potential non-compliance, or events approaching non-compliance to the Electric Operations Superintendent and the Risk Oversight Committee.
19. Assist the Electric Operations Superintendent and the Risk Oversight Committee to assess the root causes of potential NERC/WECC non-compliance activities and provide recommendations for addressing those causes.
20. Provide NERC/WECC Self-Reporting information to the Electric Operations Superintendent, Risk Oversight Committee, and WECC.
21. Develop and maintain an NERC/WECC incident response and reporting process.
22. Assist the Electric Operations Superintendent with implementing the NERC/WECC incident response and reporting process.
23. Perform or cause to be performed any actions related to mitigation plans submitted to WECC and provide sufficient documentation of mitigation actions to the Electric Operations Superintendent.
24. Track NERC/WECC compliance mitigation plans to completion.
25. Regularly report NERC/WECC compliance status to the Electric Operations Superintendent.
26. Monitor and administer the NERC Alert program.

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27. Prepare quarterly NERC/WECC compliance status reports for the City Council that includes updates on compliance and Standards development activities.
28. Monitor the implementation of the NERC/WECC Internal Compliance Program and report progress to the Electric Operations Superintendent.
29. Administers the centralized compliance management system for maintaining NERC/WECC compliance related information.

## **20 Subject Matter Experts (SMEs)**

1. Understand NERC/WECC Reliability Standards applicable to them.
2. Assist the NERC/WECC Compliance Administrator with revising and updating compliance policies, processes, and procedures.
3. Attend all required compliance training.
4. Follow compliance policies, processes, and procedures.
5. Perform duties in a manner that complies with applicable regulations.
6. Monitor controls and perform and report self-audits of compliance activities.
7. Fully document all compliance activities.
8. Meet deadlines leading up to internal audits, self-certifications, spot checks, regulator audits, compliance activities, and action plans.
9. Cooperate with entities reviewing compliance records and documentation.
10. Immediately notify management of any potential non-compliant events.
11. Participate in work groups that review and comment on regulations or NERC/WECC standards relative to one's technical expertise.
12. Cooperate with the Compliance Administrators and any authorized entities reviewing compliance and documentation, including providing access to documentation and evidence.

## **21 All Employees**


1. Every employee at the City has an obligation and responsibility to help ensure that the City is complying with all applicable regulatory requirements. If any employee becomes aware of a potential compliance issue, the employee must notify a member of management immediately for further review.
2. Attend any annual (or more frequent) required training which includes regulatory compliance updates.

		<b>Electric Utility Department- NERC/WECC Internal Compliance Program</b>	
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Attachment B

**Electric Utility Department  
NERC Internal Compliance Program**

Draft

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## 22 Background

The Federal Energy Policy Act of 2005 provides the FERC authority to approve and enforce rules and regulations to protect and improve the reliability of the nation's bulk power system. Through this Act all electric power entities that impact the Bulk Electric System must comply with FERC approved Regulatory Standards, and public utilities that sell electricity at market-based rates must comply with market rules of conduct and ongoing reporting and compliance requirements. The NERC Statement of Compliance Registry criteria describe which entities are required to register with NERC and comply with the Regulatory Standards. For those entities, mandatory compliance Regulatory Standards with the first set of standards approved by FERC came into effect on June 18, 2007.

The Statement of Compliance Registry requires, amongst other things, utilities to register into the program if they are a participant of the regions Under Frequency Program. The City is registered as a Distribution Provider (DP) and Load Serving Entity (LSE) based on the this sole criteria and does not meet any of the other registration criteria.


Under this statutory framework, standards are proposed by electric reliability organizations and approved by FERC. The NERC has been delegated authority as the electric reliability organization for the four interconnections in North America that include Quebec, Electric Reliability Council of Texas ("ERCOT"), Eastern, and Western interconnections. Within the NERC interconnection, NERC has further delegated regional reliability organization functionality to eight regional entities. The City is located within the WECC region.

The City's EUD is required to comply with all FERC approved Reliability Standards applicable to its registered functions as a Load Serving Entity ("LSE"), and Distribution Provider ("DP").

The EUD's NERC Internal Compliance Program (ICP) is supported by the City's Risk Management and Compliance Program referred to as the Program.

The ICP support the four-pillars of compliance framework presented in the FERC's October 2008 Policy Statement on Compliance.


- Role of senior management in fostering compliance;
- Effective preventive measures to ensure compliance;
- Prompt detection, cessation, and reporting of violations; and
- Remediation efforts

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This ICP provides the framework to support compliance with the FERC reporting requirements and NERC and WECC Reliability Standards.

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### **23 NERC/WECC Compliance Program Structure**

The EUD's ICP is a rigorous, established and formal program. The EUD strives to achieve a high level of business and personal ethical standards, as well as compliance with the laws and regulations that apply to its business. .


The EUD ICP is managed at a high level and programs and systems are in place to continuously monitor, evaluate, update, and implement the program.

To effectively and efficiently manage the compliance program the EUD has implemented a centralized compliance management system utilizing Microsoft SharePoint. Within the system the EUD has identified and documented all processes used to comply with each requirement. In order to continuously be audit ready, all processes, procedures, evidence, and supporting documentation have been identified and are continuously logged. Forms are used in the compliance system that incorporates controls to ensure completeness, accuracy and timeliness. The NERC Compliance Administrator continuously monitors NERC and WECC for updates and guidance, including WECC Bulletins NERC Compliance Application Notices, and best practice guidance documents.

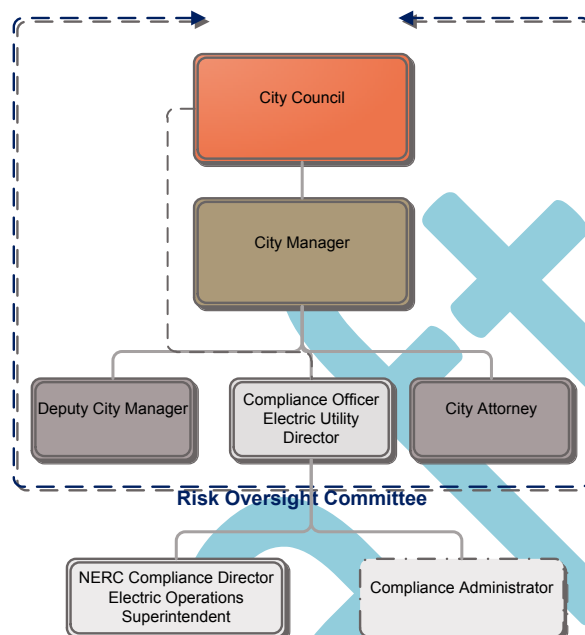
The ICP is continuously evaluated by the NERC Compliance Director and the NERC Compliance Administrator.

### **24 NERC/WECC Compliance Program Oversight**

The EUD's ICP operates under the overall City Risk Management and Compliance Program, which is overseen by the ROC and is directed by the Compliance Officer.

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### NERC/WECC Compliance Program Oversight Structure.




The **NERC Compliance Administrator** oversees the ICP and works directly with the Electric Operations Superintendent, who has the direct responsibility for performing reliability functions. The Compliance Administrator also reports to the Compliance Officer.

The **NERC Compliance Director** is responsible for performance of the NERC compliance program and assigns responsibility to address compliance concerns as well as monitoring the process to address those concerns. They act as a business partner to the NERC Compliance Administrator. They also attend annual cross departmental team meetings to provide updates on compliance and standards developmental activities.

The **NERC Compliance Officer**, supported by the **NERC Compliance Director** and **Subject Matter Experts (SMEs)**, shares the effort to ensure that all Reliability Standards, requirements, sub-requirements and the appropriate controls are clearly reflected in operational and business processes.

**SMEs** work directly with the **NERC Compliance Director** and have direct responsibilities for performing reliability functions. The NERC Compliance Administrator assists directly with the SMEs to provide compliance expertise.

## 25 Independent Access to Executives

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The NERC Compliance Administrator monitors and reports the department's compliance status with the NERC and WECC Reliability Standards to the Compliance Officer and the ROC.

The NERC Compliance Administrator has access to the Compliance Officer to provide input and ask questions regarding any concerns with the compliance program.

## **26 Independent Management**

It is crucial that the Compliance Administrators provide meaningful results and no conflict of interest exist nor any other impairment exist to provide unbiased findings. The Compliance Administrator is not responsible for the management of the work groups responsible for compliance.

## **27 Resources**

The EUD is dedicated to making the best use of all appropriate resources from PG&E, WECC, NERC, FERC and others as part of the compliance program effort. The Compliance Officer is committed to use any and all of its resources to improve its robust, rigorous, and transparent NERC compliance program supported by the ICP.

The City Council has approved sufficient funding for the administration of the ICP. The requirements of this compliance program are budgeted and fully staffed on a year-round basis.

## **28 Performance Targets**


The EUD promotes compliance by identifying measurable performance targets. Key performance indicators help the EUD understand performance in relation to strategic goals and objectives. The following key performance indicators are the 2012 year's NERC/WECC compliance goals:

- **Regulatory Requirements - tracked and current.**

The EUD maintains a list of applicable regulatory requirements that are applicable to the City and update this list as the regulations change. Any significant changes to the list are forwarded to the applicable supervisor for inclusion in annual training and/or email notifications if necessary.

- **Recommended improvements are acted on.**

Following a mock audit or through other means, the EUD considers and acts on recommendations for improvement within 90 days of any accepted recommendations.

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- **Mitigation plans are timely.**

The EUD determines appropriate mitigation plans for applicable violations.

- **Operates with no NERC regulatory violations.**

The EUD strives for full compliance with no violations occurring.

- **Respond to all NERC Alerts timely.**

The EUD reviews, determines response and logs all NERC Alerts. The EUD will take timely action on alerts that are determined to require a response by the City.

- **Provide timely training.**


## 29 Outreach

The EUD's outreach focuses on a commitment to improve reliability. The City maintains a good relationship with PG&E, WECC, NERC, and FERC to improve communications, promoting meaningful training/education opportunities, and providing compliance assistance. The following describes the methods for meeting the outreach program:

- Communications - Operations staff are trained annually on NERC related activities in order to promote continual awareness of the importance of compliance with regulatory requirements, the Electric Utility Director, Electric Operations Superintendent and the NERC Compliance Administrator sends out compliance emails, with compliance updates, compliance clarifications, compliance notices and provides periodic City Council reports.
- Training and Education - Training is provided as described in section [333310](#).
- NERC Alerts – NERC Alerts are communicated to all appropriate staff.
- Participation in the Standards, Policy, and WECC Criteria Development Drafting Process

The City is committed to improving reliability of the electric system. We participate in the drafting process of Standards, policies and WECC Criteria by providing comments, assisting drafting teams, and voting.

- Users Groups/Conferences/Webinars - The NERC Compliance Administrator and other City staff attend and participate in regional and national events, conferences, and trainings to help ensure the company maintains awareness of emerging or changing regulations and to learn and share best-compliance practices. The City is


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able to stay up-to-date on new and pending developments as they relate to the Reliability Standards by attending industry related seminars, as well as regional sponsored training. Meeting topics are summarized and reviewed by the Electric Utility Director, Electric Operations Superintendent, Departmental Management, SMEs and other key individuals.

Examples of such conferences, meetings, and trainings include:

- WECC compliance user groups
- WECC monthly call
- Critical Infrastructure Protection (“CIP”) Standards user groups
- Western Interconnection Compliance Forum (WICF) meetings
- NERC and FERC Sponsored Conferences and Training Programs
- Rule Making Proceedings
- Committees and Work Groups

The City employs the NERC Compliance Administrator to monitor WECC, NERC, and FERC committee activities as well as various standards drafting committees. The City assigns SMEs to provide input to various standards drafting committees through the NERC Compliance Administrator. Any personnel involved in these activities provide information to the appropriate NERC Compliance Administrator and the NERC Compliance Director. Once aware of a new or changing regulatory requirement, the NERC Compliance Director coordinates with the affected personnel to ensure that: 1) the new regulatory requirements are understood and 2) processes and procedures are developed to help ensure compliance with the requirements.

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### 30 Requirements Identification

The City is registered with NERC as an LSE, and DP. It is interconnected to the PG&E transmission system, who is the Transmission Owner and Transmission Planner. The City is within the CAISO Balancing Authority and Planning Authority. PG&E and the CAISO share responsibilities through a Coordinated Function Registration Agreement as the Transmission Operator of the facilities that interconnect the City.

The Regional Reliability Organization over the City is the WECC Regional Reliability Organization.

The City develops its processes to comply with the all agreements or related procedures of these organizations as it relates to compliance with the NERC Standards.

The NERC Standards Requirements that are applicable to the City are listed on the City compliance website under the "FERC Approved Standards" folder:

<http://compliance.lodielectric.com>

### 31 NERC/WECC Standards Requirements - tracked and current.


The City maintains a list of applicable NERC/WECC Standards requirements that are applicable to the City **and** update this list as the standards change. New updates to the list are tracked to insure that all changes to the list are in compliance within 30 days of the requirement becoming effective. Any significant changes are automatically forwarded to the applicable supervisor for inclusion in annual training and/or email notifications if necessary.

The City's NERC Compliance Administrator performs the process of updating all versions of the FERC Approved Reliability Standards as new Standards are revised. The procedure for this process is maintained by the NERC Compliance Administrator and is called "Updating the FERC Approved Reliability Standards List."

### 32 Procedures and Other Documents

The City maintains the following compliance related procedures that are available to all staff at <http://compliance.lodielectric.com>

- Communication and Emergency Response
- Event Analysis
- Facility Coordination

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- Model Data Submittal
- Protection System Testing Maintenance and Validation
- Risk Based Assessment Methodology
- Sabotage Recognition and Incident Reporting
- NERC Alert Response
- Updating the FERC Approved Reliability Standards List


The following compliance related reporting forms, lists, documents, and logs are available on <http://compliance.lodielectric.com>:

- Risk Management and Compliance Program
  - Attachment B: ICP
- FERC Approved Standards
- Risk Based Assessment Methodology Form
- Processes
- Evidence Documents
- Compliance Task
- Training Log
- Call Log
- Substation Maintenance Log
- Sabotage Reporting Log
- UFLS Validation Form
- Misoperation Log
- Data Submittal Communications
- Facility Modifications Documents

### **33 Compliance Training**

The City continually develops processes, procedures, and controls to help prevent the occurrence of regulatory violations. In addition, they encourage staff to participate in compliance related training and educational opportunities.



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- New Orientation


All new employees are sufficiently trained to perform compliance related activity, including affected contractors and vendors, prior to them performing any compliance related duties.

- Annual Training

Annual training will be provided to all applicable employees as described in the table below. Documentation of the training (sign-in sheets, training materials, completion certificates, and other reference materials will be maintained in the Training log by employee. Controls are in place to automate reminders for upcoming training refreshers by employee.

	Ap
<b><u>Overview Awareness</u></b>  This training provides general information on NERC, FERC, and WECC requirements, recent and expected changes, and internal compliance program changes.	EUD employees and long-term contractors that are responsible for NERC Compliance or could be an interface to NERC or WECC..
<b><u>Sabotage Recognition and Incident Response</u></b>  This training describes methodologies for identifying sabotage, responding to sabotage, and maintaining records. It supports the Sabotage Recognition and Incident Response procedure.	All EUD employees and long-term contractors. Note: Any EUD employee or long-term contractor who does not receive this training shall be made aware of who to contact, who has received the training, to report a potential sabotage event.
<b><u>Event Analysis</u></b>  This training describes the analysis, actions, and reporting requirements for all events. The training describes Bulk Electric System Disturbances, Protection System Misoperations, and Vegetation interruptions.	SMEs responsible for maintenance and incident reporting.
<b><u>Communication and Emergency Response</u></b>  This training describes required protocol for verbal communications when receiving directives	SMEs responsible for receiving verbal communications from the Transmission Operator, Balancing



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or when providing emergency assistance.	Authority, or Reliability Coordinator.
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### 34 Risk Assessment

A risk assessment is conducted annually to identify and quantify internal and external risks of non-compliance to the Regulatory Standards. The risk inventory is identified through employee surveys, past experience within the EUD, industry announcements and forums, and other agencies shared experiences. Resource decisions for addressing risks are determined based on the score. High risk items are added to the City's overall risk inventory.

The following describes the organizations method for conducting a risk assessment.

Step	Method for Applying Risk Assessment
1.	A NERC/WECC risk assessment is conducted annually or as needed.
2.	The electric department surveys its staff each year to identify areas for improvement in the procedures and processes. In addition, staff is encouraged to make suggestions to all policies, procedures and processes at any time during the year.
3.	The NERC Compliance Director and the NERC Compliance Administrator conduct risk assessment meetings as necessary and maintain the minutes/agendas.
4.	<p>The following are identified as part of the risk assessment:</p> <ul style="list-style-type: none"> <li>• Prior violations</li> <li>• High violation risk factors</li> <li>• Violation Severity Levels</li> <li>• Periodic performance related Requirements that have a higher probability of occurrence.</li> <li>• Weaknesses where additional self-audits or controls should be added</li> </ul>
5.	The Compliance Administrator calculates a risk score after applying the assessment and utilizes it to evaluate areas for additional controls. Several high risk processes have automated controls in place to ensure completeness, accuracy and timeliness.

### 35 Controls and Program Monitoring

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The electric department continuously manages regulatory compliance risk through (1) monitoring programs and continuously updating policies, procedures, (2) annual self-assessments and audits, and (3) hard coded controls. Hard controls include automated due date calendared reminders, forms with mandatory fields for collecting evidence. These hard and soft controls are part of a control environment that will help prevent the occurrence and, especially, the reoccurrence of violations.

### 35.1 Compliance Monitoring

The Compliance Administrator, who may be a contracted consultant, will monitor industry changes that impact the Program. The EUD has documented processes that address each regulatory requirement. The process statements, policies, procedures, and on-line forms are regularly modified when impacted by industry changes or identified internal opportunities for efficiency and effectiveness. Controls are identified and documented for each regulatory standard in the online compliance tool used to control the program.


In addition the City encourages its staff to participate in training and educational opportunities.

Each NERC and WECC Reliability Standard applicable to the City will be continually monitored on an ongoing basis. This monitoring process includes maintaining a thorough knowledge of standard requirements, performing periodic reviews to confirm compliance, performing an annual internal audit (self-audit), and informing management of any instances of potential non-compliance. The City will consider or implement changes based on recommendations that come out of this monitoring process.

### 35.2 Self-Audit

An annual formal internal compliance self-audit is conducted for compliance with all applicable Reliability Standards. The following areas of concern are addressed in the self-audit:

Step	Description
1.	The NERC Compliance Administrator takes the role of the enforcement official and conducts the level of investigation that is anticipated from the regulator.
2.	The self-audit is conducted at least annually. Audit results are reported and reviewed internally after each self-audit. Reports are retained in accordance with page <a href="#">171718</a> .
3.	Spot checks are performed prior to each self-certification. A self-report is provided to the Compliance Officer with a recommendation for approval.

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4.	A self-audit allows you to find potential red-flag issues and allows time to understand the issue prior to review with the regulator.
5.	The self-audit provides a focus on areas of high risk.
6.	Prompt self-reporting is initiated. Self-reporting may result in lower fines and indicate a mature compliance program that could mitigate future penalties.


All audits are shared with the applicable City staff and any other staff requesting it.

### 35.3 Hard Controls

Hard control include mandatory fields used to collect maintenance information, automatic reminders, automatic escalation reminders, self-reviews, and NERC Compliance Administrator reviews.

Automated controls are in place to ensure completeness and timeliness. SharePoint logs have required fields to ensure completeness. To help ensure that compliance-related deadlines and deliverables are met on a proactive basis, the City utilizes automated reminders also, associated with Microsoft Outlook. Through the use of this system, tasks and related deadlines are created for specific deliverables and assigned to a responsible party. The Compliance Administrator is able to monitor task status and take action, if needed. Examples of hard coded controls include:

Protection System Maintenance Tracking System	To ensure completeness, the maintenance system forms have required fields that do not allow the maintenance personnel to submit the form until complete.
	To ensure timeliness, workflows send reminder messages to maintenance staff and escalation messages to management.
Model Date Submittals	To ensure timeliness, workflows send reminder messages to maintenance staff and escalation messages to management.
Event Analysis	<p>All events are logged.</p> <p>To ensure proper reporting, controls are in place to ensure identify when under frequency load shedding (UFLS) event occurred, equipment miss-operation, or a Bulk Electric System Disturbance occurred. The controls provide instructions for proper reporting. Automatic email reporting is sent.</p>

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	To ensure timely reporting, controls are in place to send reminders for timely investigation and reporting of UFLS Events, miss-operations, and Bulk Electric System Disturbances.
Procedure Approvals	To ensure timely review and approval, controls are in place to ensure reminders are sent to review and escalated if review and approval is not timely.
Training	To ensure timely reporting, controls are in place to monitor training and retraining dates and send reminders and escalation reminders.
Critical Infrastructure Protection Review	To ensure timely review, controls are in place to send automatic reminders when the review of the City's electric assets is due.

## 36 Self-Reporting

### 36.1 Discovery of Potential Regulatory Violations – Review Process


The City's is committed to continuous improvement in order to design the ICP to prevent non-compliance activities from occurring or to detect non-compliance immediately. To ensure that potential violations are detected, mitigated, and reported in a timely manner, the City has implemented the following measures:

- Periodic review of the ICP
- Detecting and Mitigating Potential Violations
- Periodic Compliance Reviews
- Company Personnel
- Annual Internal Audits

### 36.2 Responding to and Reporting Potential Violations

Once potential non-compliance is discovered, the issue is reviewed and investigated with the assistance of applicable parties, a final determination as to whether a violation or not exists is made by the ROC. Once determined appropriate action is taken, including self-reporting or other remedial actions.

The City's process for responding to, investigating and reporting potential violations includes the following steps.


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Step	Description
1.	Potential violations of regulatory requirements are communicated and discussed with the Compliance Officer and the NERC Compliance Director.
2.	The NERC Compliance Director and the NERC Compliance Administrator leads an investigation with the SMEs and owners. The NERC Compliance Administrator will provide a report to the Compliance Officer with recommendations.
3.	The Compliance Officer will submit the report to the ROC for determining if a violation has occurred and requires self-reporting to the applicable regulatory agencies.
4.	For instances where the NERC Compliance Administrator and NERC Compliance Director believes a potential violations exist or where process enhancements are needed, the office leads the investigation to (1) document a description of the potential violation (2) determine the root cause, (3) determine steps being taken to prevent similar incidents from reoccurring (4) document a mitigation plan.
5.	<p>The NERC Compliance Administrator initiates the reporting of the potential violation to the applicable regulatory agencies, as necessary.</p> <p>The Self-Report form can be found on the WECC Compliance Web Portal at: <a href="https://portal.wecc.biz">https://portal.wecc.biz</a> and is reported through WebCDMS.</p> <p>The submitted Self-Report and mitigation plan is also stored on the compliance system for internal tracking.</p>
6.	It is the WECC compliance staff obligation to submit all alleged non-compliance information to NERC in accordance with the NERC Compliance Monitoring and Enforcement Program (CMEP) and WECC internal enforcement guidelines.

### 37 Remediating and Preventing Repeat Violations

To ensure that violations are remediated and prevented from recurring, the City EUD is implementing the following measures:


Step	Description
1.	The risk assessment is updated and reviewed to determine any other potential risks associated with the identified activity.

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2.	All related processes, procedures, controls, and training programs are reviewed to ensure clarity. Updates are provided where necessary.
3.	The mitigation plan is logged, tracked and verified to ensure remediation items are completed timely.
4.	The NERC Compliance Administrator will provide additional data or information requested by the regulatory authority and will provide timely updates on the status of the remediation plan to the regulatory authority (WECC, NERC, or FERC).

### 38 Self-Certification

Step	Description
1.	WECC will post Self-Certification or periodic data collection forms on the OATI WECC webCDMS at least sixty (60) days prior to the submittal period, but the City cannot submit forms until the submittal period has begun. Section 6 of the WECC Web Portal User Guide provides information concerning the Self-Certification submittal process.
2.	The NERC Compliance Administrator will perform a formal review of all actively monitored Standards prior to each annual self-certification to ensure compliance. A formal report will be provided to the Compliance Officer for review and approval.
3.	During the annual self-certification time line and after receiving approval from the Compliance Officer, the NERC Compliance Administrator will self-certify compliance with the Reliability Standards.
4.	WECC will accept Self-Certification forms only during the submittal period. Failure to submit the forms prior to the end of the submittal period will result in non-compliance. The WECC Compliance Staff are to review Self-Certification submittals to determine acceptability, and may request additional information if necessary.
5.	Semi-annual Self-Certifications are required for the CIP-002 through CIP-009 NERC Reliability Standards, and are not part of the annual Self-Certification process for all other Reliability Standards. Semi-annual Self-Certification forms will be posted on the WECC Compliance Web Portal at least thirty (30) days prior to the submittal period. Semi-annual Self-Certifications must be received by WECC from the City on January 15th and July 15th according to the CIP implementation schedule. The "Guidance for Enforcement of CIP Standards" document can be found on the NERC Website at:

		<b>Electric Utility Department- NERC/WECC Internal Compliance Program</b>	
Version 1.0	Rev. Date: 12/1/2011	Document:	Annual Approval:

Step	Description
	<a href="http://www.nerc.com/files/Guidance_on_CIP_Standards.pdf">http://www.nerc.com/files/Guidance_on_CIP_Standards.pdf</a> . The "Implementation Plan for Cyber Security Standards for CIP-002 – CIP-009" can also be found on the NERC Website at: <a href="http://www.nerc.com/fileUploads/File/Standards/Revised_Implementation_Plan_CIP-002-009.pdf">http://www.nerc.com/fileUploads/File/Standards/Revised_Implementation_Plan_CIP-002-009.pdf</a> .

### 39 Document Retention Policy

Unless otherwise specified here on, all major revisions of this ICP and evidence demonstrating implementation of the ICP should be maintained for 6 years or for 1 year after a NERC/WECC off-site audit, whichever is greater. The maximum required data retention period is 7 years. Provide documentation to WECC and NERC upon their request within 30 calendar days.

### 40 Storage


All documents are stored in the compliance system at <http://compliance.lodielectric.com>.

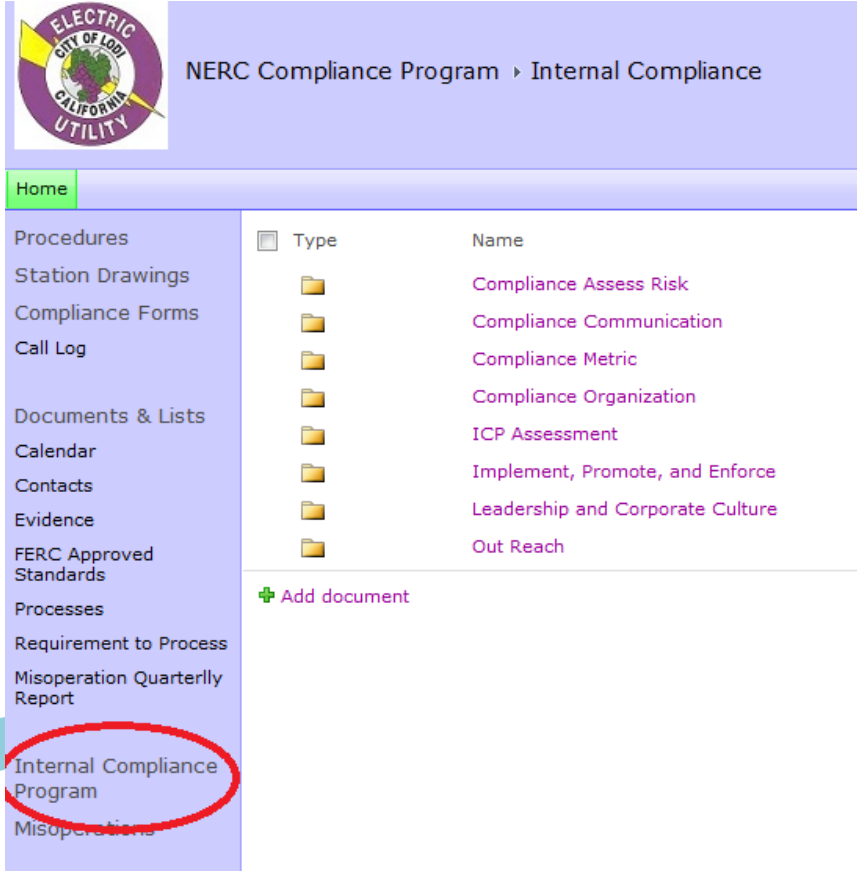
### 41 Compliance System

The compliance system is used to monitor and track the NERC Compliance Program and for tracking the ICP and evidence that it is implemented. Instructions to access this information are as follows.


Step	Action
1.	Log on to the compliance system at: <a href="http://compliance.lodielectric.com">http://compliance.lodielectric.com</a> Enter your user name and password. Contact the Electric Operations Superintendent if you do not have access.



		<b>Electric Utility Department- NERC/WECC Internal Compliance Program</b>	
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Step	Action
2.	<p>Select Internal Compliance Program</p> 
3.	<p>Add additional information to the ICP evidence files by clicking the “Add document” button.</p>



		<b>Electric Utility Department- NERC/WECC Internal Compliance Program</b>	
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#### 42 References

[FERC Revised Policy Statement on Enforcement](#), (May 15, 2008)

[NERC Compliance Monitoring and Enforcement Program](#) , WECC, (2010)

WECC CMEP – Self-Reporting Form, (April 13, 2009, Version 1)

[WECC Internal Compliance Program Self-Assessment and Survey Update](#), (Feb. 9, 2011)

#### 43 Revision History

Version	Author	Description of Changes	Date
1.0	MJCooper	First version	11/28/2011

#### 44 Responsible Senior Manager or Delegate

An authorized individual must sign and date this NERC/WECC Internal Compliance Program. By doing so, this individual, on behalf of the City of Lodi, certifies that the information submitted herein is accurate.

- 1 This certifies that I am the Compliance Officer of the City of Lodi.
- 2 I am an officer authorized to sign this EUD ICP on behalf of the City of Lodi.
- 3 I have read and am familiar with the contents of the IICP and any related documents submitted herein.
- 4 I understand that based on the answers herein, WECC may request more information specific to the City of Lodi's ICP.
- 5 To the best of my knowledge, the information provided in this document is correct.

Revision 1.0	<div style="text-align: center; margin-bottom: 10px;"> X </div> <div style="border-top: 1px solid black; margin-top: 5px;"> Elizabeth A. Kirkley Electric Utility Director </div>
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## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support to AB 1779 - Intercity Passenger Rail Act of 2012 for San Joaquin Corridor (Galgiani)

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Authorize the Mayor, on behalf of the City Council, to send a letter of support to AB 1779 - Intercity Passenger Rail Act of 2012 for San Joaquin Corridor (Galgiani).

**BACKGROUND INFORMATION:** The City was recently asked by the San Joaquin Regional Rail Commission to support AB 1779 pertaining to intercity passenger rails service and send a letter of support regarding the same to Assembly Member Galgiani.

The proposed legislation is currently a spot bill and the specific language of the bill is making its way through both the Legislative Counsel's office and the Rules Committee. The proposed language (attached) will be added to the current bill in the near future and it is expected that the matter will be heard by the Transportation Committee in mid-April. For the reasons stated in the attached draft letter, it is recommended that local governments support the proposed legislation.

**FISCAL IMPACT:** Not applicable at this time.

**FUNDING AVAILABLE:** Not applicable at this time.

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Randi Johl  
City Clerk

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

CITY COUNCIL

JOANNE MOUNCE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
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KONRADT BARTLAM,  
City Manager  
RANDI JOHL, City Clerk  
D. STEPHEN SCHWABAUER  
City Attorney

April 4, 2012

Assemblymember Galgiani  
State Capitol Building, Room 5155  
Sacramento, California 95814  
Attention: Victoria Grajek, Chief of Staff

Via Facsimile: (916) 319-2117

**SUBJECT: Intercity Passenger Rail Act of 2012 for San Joaquin Corridor  
- LETTER OF SUPPORT**

Dear Assemblymember Galgiani,

The City of Lodi is pleased to provide this letter of support for Assembly Bill (AB) 1779, which would enable the transfer of administrative responsibility of the San Joaquin intercity passenger rail service from the Department of Transportation to a new joint powers authority.

In 1996, the Capitol Corridor Joint Powers Authority (CCJPA) was created to oversee the administration of the Capitol Corridor service under the provisions of Senate Bill 457 (SB 457). Over the last 15 years, without direct financial contribution by member agencies, the CCJPA has successfully managed the Capitol Corridor between Auburn and San Jose. Capital investments, cooperation with the Union Pacific freight railroad, and state support have allowed for dramatic increases in the frequency of service (increases of 400 percent between Sacramento and Oakland), and the Capitol Corridor intercity passenger rail service has the best on-time performance in the nation for intercity service. In addition to more cost effective administration and operations, the CCJPA has shown that there are several other potential benefits to local authority administration of intercity passenger service including: the ability to have a stronger voice in advocating for service improvements and expansions, local decision-making that is more responsive and adaptive to passenger issues, the ability to take better advantage of joint marketing and partnerships with local agencies, and more engagement by local communities to support the service.

We appreciate that AB 1779 follows the model of the CCJPA, and is permissive legislation which would enable regional governance/management of the existing San Joaquin intercity passenger rail service between Bakersfield-Fresno-Stockton-Sacramento-SF Bay Area.

We support defining the composition of the San Joaquin Joint Powers Authority (Authority), and extending the time for creating the Authority and executing an interagency transfer agreement with the Department of Transportation to December 31, 2013. In order to transfer responsibility of the San Joaquin intercity passenger rail service to the Authority, AB 1779 will require that the transfer must result in administrative or operating cost reductions. In addition, AB 1779 will prevent any existing sources of local or regional transit funding to be used to expand or maintain the San Joaquin intercity passenger rail service.

With more efficient administration and stronger local/regional support, a regionally managed San Joaquin intercity passenger rail service can result in much higher frequencies of service, and increases in ridership and revenue – like experienced by the Capitol Corridor under the regional administration of the CCJPA. Increases in San Joaquin intercity passenger rail service and ridership will result in more jobs, improve air quality, and will help promote sustainable development.

Intercity passenger rail is environmentally friendly, and the state has a continuing interest in the provision of cost-effective and efficiently administered intercity passenger rail services. We are pleased to provide this letter of support for AB 1779 to help move California forward.

Sincerely,

JoAnne Mounce  
Mayor

C: Stephen Qualls, League of California Cities  
File

**Randi Johl**

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**From:** Randi Johl  
**Sent:** Tuesday, March 27, 2012 08:59 AM  
**To:** Randi Johl  
**Subject:** FW: Request for Support for AB 1779 Regional Governance Initiative for San Joaquin Service  
**Attachments:** Request for Sponsors and Support for AB 1779.pdf; ATT2578571.htm; AB 1779 Mock-up March 20 2012.pdf; ATT2578572.htm; Draft Letter of Support for AB 1779.doc; ATT2578573.htm; Draft Sponsoring Agency Example Letter for AB 1779.doc; ATT2578574.htm

**From:** "Dan Leavitt" <[danl@acerail.com](mailto:danl@acerail.com)>

**Subject: Request for Support for AB 1779 Regional Governance Initiative for San Joaquin Service**

Hello CVRWG Member Agency Representatives,

Please see the attached letter requesting that your agency submit a letter to sponsor and/or support AB 1779, the "Intercity Passenger Rail Act of 2012 for San Joaquin Corridor". Also attached is the proposed language for AB 1779 and an example of a letter to sponsor/support AB 1779 and an example letter of support for AB 1779.

Letters are most effective if received by April 4, 2012. Please contact me if you have any questions, we greatly appreciate your support and we look forward to continuing to work with you.

Best regards,

Dan Leavitt  
SJRRRC  
(209) 944-6266  
(530) 400-9475 (cell)

03/27/2012

## AB 1779 Mock-up

(proposed amendments are shaded)

An act to amend Sections 14031.8 and 14070.2 of, and to repeal and add Article 5.4 (commencing with Section 14074) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.

SECTION 1. This act shall be known and may be cited as the Intercity Passenger Rail Act of 2012 for the San Joaquin Corridor.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) An intercity rail system, linking major urban centers and complemented by feeder bus services that provide access to outlying areas and destinations, is an important element of the state's transportation system, and shall remain a state-funded program.

(2) The state has a continuing interest in the provision of cost-effective intercity rail passenger services and has a responsibility to coordinate intercity rail passenger services statewide.

(3) Since 1976, the state has invested over 1.8 billion dollars (\$1,800,000,000) in capital improvements and operating support for intercity rail passenger service and must ensure the protection of that investment.

~~(4) Intercity rail service and ridership increases will result in more jobs, improve air quality, and will help promote sustainable development.~~

(b) The Legislature, through the enactment of this act, intends all of the following:

(1) The Secretary of Business, Transportation and Housing shall be responsible for the overall planning, coordination, and budgeting of the intercity passenger rail service.

(2) If the secretary determines that transferring responsibility for intercity rail service in a particular corridor or corridors to a statutorily created joint powers agency would result in administrative or operating cost reductions, the secretary may authorize the Department of Transportation to enter into an interagency transfer agreement to effect a transfer of those administrative functions.

(3) Any intercity rail corridor for which administrative responsibility has been transferred to a joint powers board through an interagency transfer agreement shall remain as a component of the statewide system of intercity rail corridors.

(4) The public interest requires strategic expansion of the state intercity rail program in order to keep pace with the needs of an expanding population.

(5) For not less than a five-year period, the level of state funding for intercity rail service in each corridor shall be maintained at a level equal to at least the current level of service in the

corridor, thus providing fiscal stability that will allow appropriate planning and operation of these services.

SEC. 3. Section 14031.8 of the Government Code is amended to read:

14031.8. (a) The Secretary of Business, Transportation and Housing shall establish, through an annual budget process, the level of state funding available for the operation of intercity passenger rail service in each corridor.

(b) Where applicable, operating funds shall be allocated by the secretary to the joint powers board in accordance with an interagency transfer agreement ~~which~~that includes mutually agreed-upon rail services. Funds for the administration and marketing of services, as appropriate, shall also be transferred by the secretary to the joint powers board, subject to the terms of the interagency transfer agreement.

(c) The joint powers board or local or regional entities may, but shall not be required to, augment state-provided resources to expand intercity passenger rail services, or to address funding shortfalls in achieving agreed-upon performance standards. However, notwithstanding Section 99233.4 or 99260.5 of, or subdivision (b) of Section 99400 of, the Public Utilities Code, or any other provision of law, the joint powers board or local or regional entities shall not use existing sources of transit funding for this purpose, including, but not limited to, funds made available under the Mills-Alquist-Deddeh Act, commonly known as the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10, of the Public Utilities Code), or under the State Transportation Assistance program pursuant to Sections 99313 and 99314 of the Public Utilities Code. The joint powers board or local or regional agencies with regard to the San Joaquin Corridor may identify and secure new supplemental sources of funding for the purpose of expanding or maintaining intercity rail passenger service levels, which may include state and federal intercity rail resources.

(d) The department may provide any support services as may be mutually agreed upon by the joint powers board and the department.

(e) Operating costs shall be controlled by dealing with, at a minimum, the current Amtrak cost allocation formula, which beginning in federal fiscal year 2013/2014, will be subject to Section 209 of the federal Passenger Rail Investment and Improvement Act, and the ability to contract out to Amtrak or other rail operators as a part of federal legislation dealing with Amtrak reauthorization.

(f) Not later than December 31, 1997, the secretary shall establish a set of uniform performance standards for all corridors and operators to control cost and improve efficiency. To the extent necessary, as determined by the secretary, performance standards may be modified not later than December 31, 2014, relative to including the San Joaquin Corridor among the corridors subject to an interagency transfer agreement.

(g) Notwithstanding provisions in this section, with regard to the San Joaquin Corridor, local resources described in subdivision (c) shall not be available for expenditure to offset the redirection, elimination, reduction, or reclassification of state resources for operating intercity rail services.

SEC. 4. Section 14070.2 of the Government Code is amended to read:

14070.2. (a) If authorized by the secretary, the department may, through an interagency transfer agreement, transfer to a joint powers board, and the board may assume, all responsibility for administering intercity passenger rail service in the corridor. Upon the date specified in the agreement, the board shall succeed to the department's powers and duties relative to that service, except that the department shall retain responsibility for developing budget requests for

the service through the state budget process, which shall be developed in consultation with the board, and for coordinating service in the corridor with other *intercity* passenger rail services in the state.

(b) The (1) Except as otherwise provided in paragraph (2), the interagency transfer agreement shall be executed on or before December 31, 1996.

(2) With respect to the San Joaquin Corridor, the interagency transfer agreement shall be executed on or before December 31, 2013.

(c) The secretary shall require the board to demonstrate the ability to meet the performance standards established by the secretary pursuant to subdivision (f) of Section 14031.8.

SEC. 5. Section 14070.6 of the Government Code is amended to read:

14070.6. The department and any entity that assumes administrative responsibility for passenger rail services through an interagency transfer agreement, may, through a competitive solicitation process, contract with the National Railroad Passenger Corporation (Amtrak) or with organizations not precluded by state or federal law to provide passenger rail services, and may contract with rail corporations and other rail operators for the use of tracks and other facilities and for the provision of passenger services on terms and conditions as the parties may agree. The department is deemed to be a third-party beneficiary of the contract, and the contract shall not contain any provision or condition that would negatively impact on or conflict with any other contracts the department has regarding intercity rail services. Any entity that succeeds the department as sponsor of state-supported passenger rail services through an interagency transfer agreement, is deemed an agency of the state for all purposes related to passenger rail services, including Section 1614 of Title 49 of the United States Code. If the passenger rail service is operated by a contractor, the contractor shall, as a condition of entering into an operating agreement with the Joint Powers Authority, agree that its labor relations shall be governed by the Railway Labor Act [Title 45 United States Code].

SEC. 6. Article 5.4 (commencing with Section 14074) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 7. Article 5.4 (commencing with Section 14074) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read

#### Article 5.4 San Joaquin Corridor

14074. As used in this article, the following terms have the following meanings:

(a) "Authority" or "San Joaquin Joint Powers Authority" means a joint powers exercise of powers agency formed under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 for purposes of assuming administrative responsibility for the San Joaquin corridor under an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070).

(b) "Board" means the governing board of the San Joaquin Joint Powers Authority established under Section 14074.2.

(c) "San Joaquin Corridor" or "corridor" means the Los Angeles-Bakersfield-Fresno-Stockton-Sacramento-~~Oakland~~ San Francisco Bay Area intercity passenger rail corridor.

14074.2. (a) There is hereby created the San Joaquin Corridor Joint Powers Board, subject to being organized pursuant to subdivision (b). The board shall be composed of not more than 11 members, as follows:

(1) One member of the board of directors of the Sacramento Regional Transit District, appointed by that board.



(2) One member of the board of directors of the San Joaquin Regional Rail Commission, appointed by that board, who shall be a resident of San Joaquin County.

(3) One member of the board of directors of the Stanislaus Council of Governments, appointed by that board.

(4) One member of board of directors of the Merced County Association of Governments, appointed by that board.

(5) One member of board of directors of the Madera County Transportation Commission, appointed by that board.

(6) One member of board of directors of the Fresno Council of Governments, appointed by that board.

(7) One member of the board of directors of the Kings County Association of Governments, appointed by that board.

(8) One member of the board of directors of the Tulare County Association of Governments, appointed by that board.

(9) One member of the board of directors of the Kern Council of Governments, appointed by that board.

(10) One member of the board of directors of a regional transportation agency or rail transit operator that serves Contra Costa County, appointed by that agency, who shall be a resident of the county.

(11) One member of the board of directors of a regional transportation agency or rail transit operator that serves Alameda County, appointed by that agency, who shall be a resident of the county.

(b) The board shall be organized when at least six of the agencies described in paragraphs (1) to (11), inclusive, of subdivision (a) elect to appoint a member to serve on the board. Only those agencies that appoint a member to serve on the board prior to December 31, 2013, shall be member-agencies of the authority and be represented on the board. In the event the rail service boundaries of the San Joaquin intercity passenger rail service are extended, an additional member from each additional county receiving rail service can be added to the San Joaquin Joint Powers Board through a decision of the San Joaquin Joint Powers Board.

14074.4 This authority shall be created only if the agencies that would be represented on the board enter into a joint exercise of powers agreement to form the agency.

14074.6 The board shall make its decisions in accordance with the votes of its members, with a majority vote required for all matters with the exception of the approval of the business plan, revisions to the business plan, and the addition of new members pursuant to subdivision (b) of Section 14074.2, which shall require a vote of two-thirds vote of the members.

14074.8. The Steering Committee of the Caltrans Rail Task Force shall remain in existence. If a joint powers authority is formed pursuant to this article and an interagency transfer agreement is executed pursuant to subdivision (b) of Section 14070.2, the Steering Committee of the Caltrans Rail Task Force shall become the Steering Committee of the San Joaquin Corridor Joint Powers Authority for the purpose of advising the joint powers board.



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support for H.R. 3544 - Litigation Reform for Cities (McClintock)

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Authorize the Mayor, on behalf of the City Council, to send a letter of support for H.R. 3544 - Litigation Reform for Cities (McClintock).

**BACKGROUND INFORMATION:** The City was recently asked by a citizen to support H.R. 3544 pertaining to litigation reform for cities and send a letter of support regarding the same to Congressman McClintock.

H.R. 3544 was introduced by Congressman McClintock to amend the Federal Water Pollution Control Act to limit citizen suits against publicly-owned treatment works, to provide for defenses, to extend the period of a permit, to limit attorneys' fees, and for other related purposes. The full text of the proposed legislation is attached.

For these reasons, it is recommended that local governments support the proposed legislation.

**FISCAL IMPACT:** Not applicable at this time.

**FUNDING AVAILABLE:** Not applicable at this time.

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Randi Johl  
City Clerk

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

CITY COUNCIL

JOANNE MOUNCE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
PHIL KATZAKIAN

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KONRADT BARTLAM,  
City Manager

RANDI JOHL, City Clerk

D. STEPHEN SCHWABAUER  
City Attorney

April 4, 2012

Honorable Tom McClintock  
428 Cannon House Office Building  
Washington, DC 20515

Via Facsimile: (202) 225-5444

**SUBJECT: H.R. 3544 – LETTER OF SUPPORT**

Dear Congressman McClintock,

The City of Lodi is pleased to provide this letter of support for H.R. 3544, which would amend the Federal Water Pollution Control Act to limit citizen suits against publicly-owned treatment works, provide for defenses, extend the period of a permit, limit attorneys' fees, and for other related purposes.

As you may be aware, the City of Lodi is located in the central valley amidst wine country. Since 1923, the City has been providing wastewater collection and treatment services to the community. The cornerstone of the City's program, the White Slough Water Pollution Control Facility (White Slough) was originally constructed in 1966. This facility replaced one of the oldest secondary treatment facilities in the Western United States. White Slough provides the City with a means to achieve water quality standards required for the protection of the environmentally sensitive Sacramento-San Joaquin Delta. In addition, the City is in the process of constructing a new treatment plant which will continue to serve the community well into the future. The reforms set forth in H.R. 3544 will assist local taxpayers and the City in keeping unnecessary litigation-related costs down while focusing on the needed operations and maintenance of the facilities.

For these reasons, the City of Lodi is pleased to provide this letter of support for H.R. 3544.

Sincerely,

JoAnne Mounce  
Mayor

C: Stephen Qualls, League of California Cities  
File

## Randi Johl

---

**From:** Randi Johl  
**Sent:** Monday, March 26, 2012 09:25 AM  
**To:** Randi Johl  
**Subject:** FW: Please Support H.R. 3544 (Litigation Reform for Cities)

-----Original Message-----

**From:** Janice Magdich  
**Sent:** Mon 3/12/2012 3:29 PM  
**To:** Rad Bartlam; Steve Schwabauer; Wally Sandelin  
**Subject:** RE: Please Support H.R. 3544 (Litigation Reform for Cities)

I don't see any red flags. The legislation amends the Federal Water Pollution Control Act to among other things, limit citizen lawsuits against publicly owned treatment plants to actions involving significant non-compliance (as defined by EPA guidelines); provide additional affirmative defenses for discharge or damage that are the result of an act of God, act of war, or act or omission of third party; limits on the recovery of attorneys fees recoverable by plaintiff to the prevailing rate in the community where the publicly owned plant is located; and extends the term of permits for publicly owned treatment facilities from 5 to 15 years.

janice

-----Original Message-----

**From:** Alex Aliferis [mailto:aaaliferis@yahoo.com]  
**Sent:** Thu 3/8/2012 3:03 PM  
**To:** Rad Bartlam  
**Cc:** aaaliferis@yahoo.com  
**Subject:** Please Support H.R. 3544 (Litigation Reform for Cities)

Dear Mr. Bartlam,

Please, I urge the city of Lodi to look at H.R. 3544. HR 3544 by Congressman Tom McClintock (R-CA) deals with litigation reform for cities in relation to wastewater treatment plants.

The city of Colfax supports H.R. 3544 in addition to El Dorado County. I am sure other cities agree with H.R. 3544.

As a citizen, I urge the city of Lodi to send a letter to Congressman McNerney asking for his cosponsorship and support of H.R. 3544, if you agree with this legislation. This is needed reform that won't burden Lodi Taxpayers from future settlements. These settlements end up costing the citizens in term of high fees and taxes.

Litigation reform is long overdue.

Sincerely,

Alex Aliferis  
505 E Locust St.  
Lodi, CA 95240

112TH CONGRESS  
1ST SESSION

# H. R. 3544

To amend the Federal Water Pollution Control Act to limit citizens suits against publicly owned treatment works, to provide for defenses, to extend the period of a permit, to limit attorneys fees, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2011

Mr. McCLINTOCK introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

---

## A BILL

To amend the Federal Water Pollution Control Act to limit citizens suits against publicly owned treatment works, to provide for defenses, to extend the period of a permit, to limit attorneys fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATION ON CITIZEN SUIT PROVISION.**

4 Section 505 of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1365) is amended—

6 (1) in subsection (a) by striking “subsection  
7 (b)” and inserting “subsections (b) and (i)”; and

8 (2) by adding at the end the following:

1 “(i) LIMITATION FOR POTW SUITS.—

2 “(1) IN GENERAL.—No action may be com-  
3 menced under subsection (a)(1) by a citizen with re-  
4 spect to a publicly owned treatment works to enforce  
5 an effluent standard or limitation under this Act or  
6 an order issued by the Administrator or a State with  
7 respect to such a standard or limitation unless the  
8 publicly owned treatment works is in significant non-  
9 compliance, as defined in the Environmental Protec-  
10 tion Agency’s December 12, 1996, guidance docu-  
11 ment entitled ‘A General Design for SNC Redefini-  
12 tion Enhancement in PCS’.

13 “(2) EXCEPTION.—Notwithstanding paragraph  
14 (1), no action may be commenced under subsection  
15 (a)(1) with respect to a publicly owned treatment  
16 works that is in significant non-compliance based on  
17 a manual designation, as defined in the Environ-  
18 mental Protection Agency’s December 12, 1996,  
19 guidance document entitled ‘A General Design for  
20 SNC Redefinition Enhancement in PCS’.”.

21 **SEC. 2. AFFIRMATIVE DEFENSES.**

22 Section 309 of the Federal Water Pollution Control  
23 Act (33 U.S.C. 1319) is amended by adding at the end  
24 the following:

25 “(h) AFFIRMATIVE DEFENSES.—

1           “(1) IN GENERAL.—There shall be no liability  
2 under this Act for a person otherwise liable for the  
3 unlawful discharge of a pollutant from a publicly  
4 owned treatment works who can establish by a pre-  
5 ponderance of the evidence that the immediate cause  
6 of the unlawful discharge and any damages was—

7                   “(A) an act of God;

8                   “(B) an act of war;

9                   “(C) an act or omission of a third party  
10 other than an employee or agent of the defend-  
11 ant, or than one whose act or omission occurs  
12 in connection with a contractual relationship,  
13 existing directly or indirectly, with the defend-  
14 ant, if the defendant establishes by a prepon-  
15 derance of the evidence that—

16                           “(i) he exercised due care in light of  
17 all relevant facts and circumstances; and

18                           “(ii) he took precautions against fore-  
19 seeable acts or omissions of any such third  
20 party and the consequences that could  
21 foreseeably result from such acts or omis-  
22 sions; or

23                   “(D) any combination of the foregoing  
24 subparagraphs.

1           “(2) ADDITIONAL DEFENSES.—All general de-  
2       fenses, affirmative defenses, and bars to prosecution  
3       that may apply with respect to other Federal crimi-  
4       nal offenses may apply under this Act and shall be  
5       determined by the courts of the United States ac-  
6       cording to the principles of common law as they may  
7       be interpreted in the light of reason and experience.  
8       Concepts of justification and excuse applicable under  
9       this section may be developed in the light of reason  
10      and experience.”.

11 **SEC. 3. WAITING PERIOD.**

12       In implementing the Federal Water Pollution Control  
13 Act, the Administrator of the Environmental Protection  
14 Agency or a State, as the case may be, shall provide a  
15 60-day waiting period between the notice of a violation of  
16 the Act by a publicly owned treatment works and the  
17 issuance of a civil penalty. If within such 60-day period  
18 the publicly owned treatment works submits a viable plan  
19 for correcting the non-compliance that is the subject of  
20 the notice and thereafter diligently implements such plan,  
21 the Administrator shall not assess a civil penalty for the  
22 notice of violation.

23 **SEC. 4. PERMIT LENGTH.**

24       (a) IN GENERAL.—Notwithstanding any other law,  
25 any permit issued to the owner or operator of a publicly



1 owned treatment works by the Administrator of the Envi-  
2 ronmental Protection Agency or a State, as the case may  
3 be, to discharge a pollutant under the Federal Water Pol-  
4 lution Control Act shall have a 15-year term.

5 (b) CONFORMING AMENDMENT.—Section  
6 402(b)(1)(B) of the Federal Water Pollution Control Act  
7 is amended by striking “five years” and inserting “5  
8 years, or, in the case of a publicly owned treatment works,  
9 15 years”.

10 **SEC. 5. ATTORNEY'S FEES.**

11 Section 505(d) of the Federal Water Pollution Con-  
12 trol Act (33 U.S.C. 1365(d)) is amended by inserting after  
13 the first sentence the following: “With respect to an action  
14 involving a publicly owned treatment works, the court, in  
15 determining whether the costs of litigation (including at-  
16 torney and expert witness fees) are reasonable, shall con-  
17 sider the prevailing rate of such fees in the community  
18 where the publicly owned treatment works is located.”.

19 **SEC. 6. COST BENEFIT ANALYSIS.**

20 Notwithstanding any other law, any new or increased  
21 treatment requirement associated with a permit issued to  
22 the owner or operator of a publicly owned treatment works  
23 by the Administrator of the Environmental Protection  
24 Agency or a State, as the case may be, to discharge a  
25 pollutant under the Federal Water Pollution Control Act

1 shall be subject to a cost-benefit analysis performed by  
2 the Administrator or the State to ensure that the costs  
3 imposed on such owner or operator to comply with such  
4 new or increased requirement are outweighed by the ben-  
5 efit to the public of the new or increased requirement.

○



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support for H.R. 3125 - Earthquake Insurance Affordability Act

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

**RECOMMENDED ACTION:** Authorize the Mayor, on behalf of the City Council, to send a letter of support for H.R. 3125 - Earthquake Insurance Affordability Act (Campbell).

**BACKGROUND INFORMATION:** The City was recently asked by the League of California Cities to support H.R. 3125 pertaining to earthquake insurance affordability and send a letter of support regarding the same to Representative John Campbell.

H.R. 3125 authorizes the Secretary of the Treasury to guarantee holders of debt against loss of principal or interest, or both, on debt issued by eligible state programs designed to: (1) promote the availability of private capital to provide liquidity and capacity to state earthquake (specifically, residential property) insurance programs, and (2) expedite the payment of claims under such programs and better assist financial recovery from significant earthquakes. Some of the facts associated with the proposed legislation are as follows:

- EIAA supports families' voluntary access to fairly priced earthquake insurance.
- 80% of Californians live on or near a fault yet fewer than 10% of California households are covered by earthquake insurance.
- Federal taxpayers were on the hook for more than \$9 billion after the 1994 Northridge quake, while California's taxpayers chipped in more than half a billion dollars more.
- Without affordable earthquake insurance, federal bailout or taxpayer subsidy is certain.
- In California, the public, nonprofit California Earthquake Authority (CEA) is the State's largest earthquake insurer.

For these reasons, it is recommended that local governments support the proposed legislation.

**FISCAL IMPACT:** Not applicable at this time.

**FUNDING AVAILABLE:** Not applicable at this time.

\_\_\_\_\_  
Randi Johl  
City Clerk

APPROVED: \_\_\_\_\_  
Konradt Bartlam, City Manager

CITY COUNCIL

JOANNE MOUNCE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
PHIL KATZAKIAN

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
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LODI, CALIFORNIA 95241-1910  
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[www.lodi.gov](http://www.lodi.gov) [cityclerk@lodi.gov](mailto:cityclerk@lodi.gov)

KONRADT BARTLAM,  
City Manager

RANDI JOHL, City Clerk

D. STEPHEN SCHWABAUER  
City Attorney

April 4, 2012

Honorable John Campbell  
U.S. House of Representatives  
Washington, DC 20515

Via Facsimile: (202) 225-9177

**SUBJECT: Earthquake Insurance Affordability Act (H.R. 3125) - SUPPORT**

Dear Congressman Campbell:

I am pleased to inform you of the City of Lodi's support of H.R. 3125, the Earthquake Insurance Affordability Act (EIAA).

Like many California cities, ours is particularly vulnerable to devastating earthquakes. It is of great concern to know that less than 10% California households are properly covered although 80% of its residents currently live on or near a fault. It is clear that Californians need greater access to affordable earthquake insurance.

Increasing the number of insured homeowners could not only reduce the risk to all taxpayers, but also protect local communities, like ours, left vulnerable after a catastrophic natural disaster as they struggle to rebuild. Having insurance is the key to a fast recovery after a disaster.

The EIAA is a fiscally sound solution that empowers homeowners and protects taxpayers. It provides a limited guarantee that would significantly reduce insurance premiums by as much as 20% and allow more homeowners to afford earthquake insurance in California. Preliminary estimates by the nonpartisan Congressional Budget Office (CBO) states the EIAA cost to the federal government and taxpayers is zero. Thank you for your leadership on this critical issue.

Sincerely,

JoAnne Mounce  
Mayor

C: Senator Dianne Feinstein  
Glenn Pomeroy, California Earthquake Authority  
Stephen Qualls, League of California Cities

## Randi Johl

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**From:** Randi Johl  
**Sent:** Monday, March 26, 2012 10:38 AM  
**To:** Randi Johl  
**Subject:** FW: Letters needed

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**From:** Stephen R. Qualls [squalls@cacities.org](mailto:squalls@cacities.org)  
**Sent:** Tuesday, March 13, 2012 4:25 PM  
**Subject:** Letters needed

Below please find the first action alert of the year. We are seeking support for H.R. 3125: Earthquake Insurance Affordability Act (EIAA). Attached you will find a sample letter of support along with back up information and a list of supporters. I have also included the contact information for Senator Feinstein as well as Representative Campbell. If you could please send me a copy of the letter I would appreciate it. Please contact me if you have any questions. Thank you for your help,

Senator Diane Feinstein  
Washington, DC Office:  
331 Hart Senate Office Bldg.  
Washington, D.C. 20510  
Phone: (202) 224-3841  
Fax: (202) 228-3954  
TTY/TDD: (202) 224-2501  
Email: [www.feinstein.senate.gov/public/index.cfm/e-mail-me](http://www.feinstein.senate.gov/public/index.cfm/e-mail-me)

Congressman John Campbell  
Washington, DC Office:  
1507 Longworth Building  
Washington, DC 20515  
Phone: (202) 225-5611  
Fax: (202) 225-9177  
Email: [http://www.campbell.house.gov/index.php?option=com\\_content&view=article&id=1023&Itemid=34](http://www.campbell.house.gov/index.php?option=com_content&view=article&id=1023&Itemid=34)  
Stephen Qualls  
Central Valley Regional Public Affairs Manager  
League of California Cities

209-614-0118  
Fax 209-883-0653  
[squalls@cacities.org](mailto:squalls@cacities.org)

To expand and protect local control for cities through education and advocacy in order to enhance the quality of life for all Californians.

03/26/2012

PLEASE DO NOT distribute advocacy information from public (city hall) computers, on city time, or using public resources, even if it's from your personal email account. If in doubt, check with your city attorney.

\*\*\*Disclaimer\*\*\*Please Note: Please take the following precautions if this email is about a CITIPAC event. Though it is not illegal for you to receive this notice via a city e-mail address, you should not respond to it or forward it using public resources. You may however forward this message to your non-public e-mail account for distribution on non-public time. If you have questions about the event or need additional information, please contact Mike Egan at (916) 658-8271 or [egan@cacities.org](mailto:egan@cacities.org).

112TH CONGRESS  
1ST SESSION

# H. R. 3125

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2011

Mr. CAMPBELL (for himself, Mr. LEWIS of California, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Earthquake Insurance Affordability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Eligible State programs.
- Sec. 5. Establishment of debt-guarantee program.
- Sec. 6. Effect of guarantee.
- Sec. 7. Assessment at time of guarantee.
- Sec. 8. Payment of losses.
- Sec. 9. Full faith and credit.
- Sec. 10. Budgetary impact; costs.
- Sec. 11. Regulations.

## 1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Major earthquakes are likely in the United  
 4 States. For example, the United States Geological  
 5 Survey predicts that there is a 99.7 percent chance  
 6 that a magnitude 6.7 earthquake will strike in Cali-  
 7 fornia in the next 30 years and that there is a 46  
 8 percent chance that a magnitude 7.5 earthquake will  
 9 strike in California in the next 30 years. Earth-  
 10 quakes can be caused by volcanic or tectonic events  
 11 and result in destructive shaking of the earth, fires,  
 12 landslides, volcanic eruptions, and tsunamis.

13 (2) Despite the known risk of earthquakes, rel-  
 14 atively few homeowners have earthquake insurance.  
 15 For example, in California, 88 percent of homes in-  
 16 sured for fire do not have earthquake insurance. In  
 17 the event of a catastrophic earthquake, the lack of  
 18 homeowner earthquake-insurance coverage will slow  
 19 recovery, create economic hardship, and increase the



1 risk of mortgage and other credit defaults and ad-  
2 versely affect the Nation's banking system.

3 (3) It is important that States improve the af-  
4 fordability, availability, and quality of earthquake in-  
5 surance so that more homeowners will purchase cov-  
6 erage. For example, California has created the Cali-  
7 fornia Earthquake Authority to provide earthquake  
8 insurance to homeowners through private-sector in-  
9 surers.

10 (4) It is a proper role of the Federal Govern-  
11 ment to help prepare and protect its citizens from  
12 catastrophes such as earthquakes and to facilitate  
13 consumer protection, victim assistance, and indi-  
14 vidual and community recovery, including financial  
15 recovery.

16 (b) PURPOSES.—The purposes of this Act are to es-  
17 tablish a program—

18 (1) to promote the availability of private capital  
19 to provide liquidity and capacity to State earthquake  
20 insurance programs; and

21 (2) to expedite the payment of claims under  
22 State earthquake insurance programs and better as-  
23 sist the financial recovery from significant earth-  
24 quakes by authorizing the Secretary of the Treasury  
25 to guarantee debt for such purposes.

1 **SEC. 3. DEFINITIONS.**

2 In this Act, the following definitions shall apply:

3 (1) **COMMITMENT TO GUARANTEE.**—The term  
4 “commitment to guarantee” means a commitment to  
5 make debt guarantees to an eligible State program  
6 pursuant to section 5.

7 (2) **ELIGIBLE STATE PROGRAM.**—The term “eli-  
8 gible State program” means a State program that,  
9 pursuant to section 4, is eligible to receive a debt  
10 guarantee under this Act.

11 (3) **INSURED LOSS.**—The term “insured loss”  
12 means any loss resulting from an earthquake, an  
13 earthquake-related event, or fire following an earth-  
14 quake that is determined by an eligible State pro-  
15 gram as being covered by insurance made available  
16 under that eligible State program.

17 (4) **QUALIFYING ASSETS.**—The term “quali-  
18 fying assets” means the policyholder surplus of the  
19 eligible State program as stated in the most recent  
20 quarterly financial statement filed by the program  
21 with the domiciliary regulator of the program in the  
22 last quarter ending prior to an insured-loss trig-  
23 gering event or events.

24 (5) **RESIDENTIAL PROPERTY INSURANCE.**—The  
25 term “residential property insurance” means insur-  
26 ance coverage for—

1 (A) individually owned residential struc-  
2 tures of not more than 4 dwelling units, individ-  
3 ually owned condominium units, or individually  
4 owned mobile homes, and their contents, located  
5 in a State and used exclusively for residential  
6 purposes or a tenant's policy written to include  
7 personal contents of a residential unit located in  
8 the State, but shall not include—

9 (i) insurance for real property or its  
10 contents used for any commercial, indus-  
11 trial, or business purpose, except a struc-  
12 ture of not more than 4 dwelling units  
13 rented for individual residential purposes;  
14 or

15 (ii) a policy that does not include any  
16 of the perils insured against in a standard  
17 fire policy or any earthquake policy; or

18 (B) commercial residential property, which  
19 includes property owned by a condominium as-  
20 sociation or its members, property owned by a  
21 cooperative association, or an apartment build-  
22 ing.

23 (6) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Treasury.

1           (7) STATE.—The term “State” means each of  
2       the several States of the United States, the District  
3       of Columbia, the Commonwealth of Puerto Rico, the  
4       Commonwealth of the Northern Mariana Islands,  
5       Guam, the United States Virgin Islands, American  
6       Samoa, and any other territory or possession of the  
7       United States.

8 **SEC. 4. ELIGIBLE STATE PROGRAMS.**

9       (a) ELIGIBLE STATE PROGRAMS.—A State program  
10     shall be considered an eligible State program for purposes  
11     of this Act if the State program or other State entity au-  
12     thorized to make such determinations certifies to the Sec-  
13     retary, in accordance with the procedures established  
14     under subsection (b), that the State program complies  
15     with the following requirements:

16           (1) STATE PROGRAM DESIGN.—The State pro-  
17     gram is established and authorized by State law as  
18     an earthquake insurance program that offers resi-  
19     dential property insurance coverage for insured  
20     losses to property, contents, and additional living ex-  
21     penses, and which is not a State program that re-  
22     quires insurers to pool resources to provide property  
23     insurance coverage for earthquakes.

24           (2) OPERATION.—The State program shall  
25     meet the following requirements:

1 (A) A majority of the members of the gov-  
2 erning body of the State program shall be pub-  
3 lic officials or appointed by public officials.

4 (B) The State shall have a financial inter-  
5 est in the State program.

6 (C) If the State has at any time appro-  
7 priated amounts from the State program's  
8 funds for any purpose other than payments for  
9 losses insured under the State program, or pay-  
10 ments made in connection with any of the State  
11 program's authorized activities, the State shall  
12 have returned such amounts to the State fund,  
13 together with interest on such amounts.

14 (3) TAX STATUS.—The State program shall  
15 have received from the Secretary (or the Secretary's  
16 designee) a written determination, within the mean-  
17 ing of section 6110(b) of the Internal Revenue Code  
18 of 1986, that the State program either—

19 (A) constitutes an “integral part” of the  
20 State that has created it; or

21 (B) is otherwise exempt from Federal in-  
22 come taxation.

23 (4) EARNINGS.—The State program may not  
24 provide for any distribution of any part of any net

1 profits of the State program to any insurer that par-  
2 ticipates in the State program.

3 (5) LOSS PREVENTION AND MITIGATION.—

4 (A) MITIGATION OF LOSSES.—The State  
5 program shall include provisions designed to en-  
6 courage and support programs to mitigate  
7 losses for which the State insurance program  
8 was established to provide insurance.

9 (B) OPERATIONAL REQUIREMENTS.—The  
10 State program shall operate in a State that—

11 (i) has in effect and enforces, or the  
12 appropriate local governments within the  
13 State have in effect and enforce, nationally  
14 recognized building, seismic-design, and  
15 safety codes and consensus-based stand-  
16 ards; and

17 (ii) has taken actions to establish an  
18 insurance rate structure that takes into ac-  
19 count measures to mitigate insured losses.

20 (6) REQUIREMENTS REGARDING COVERAGE.—

21 The State program—

22 (A) may not, except for charges or assess-  
23 ments related to post-event financing or bond-  
24 ing, involve cross-subsidization between any  
25 separate property-and-casualty insurance lines

1           offered under the State program pursuant to  
2           paragraph (1);

3           (B) shall be subject to a requirement  
4           under State law that for earthquake insurance  
5           coverage made available under the State insur-  
6           ance program the premium rates charged on  
7           such insurance shall be actuarially sound; and

8           (C) shall make available to all qualifying  
9           policyholders insurance coverage and mitigation  
10          services on a basis that is not unfairly discrimi-  
11          natory.

12          (b) ANNUAL CERTIFICATION.—The Secretary shall  
13          establish procedures for initial certification and annual re-  
14          certification as an eligible State program.

15   **SEC. 5. ESTABLISHMENT OF DEBT-GUARANTEE PROGRAM.**

16          (a) AUTHORITY OF SECRETARY.—The Secretary is  
17          authorized and shall have the powers and authorities nec-  
18          essary—

19               (1) to guarantee, and to enter into commit-  
20               ments to guarantee, holders of debt against loss of  
21               principal or interest, or both, on any debt issued by  
22               eligible State programs for purposes of this Act; and

23               (2) to certify and recertify State catastrophe in-  
24               surance programs that cover earthquake peril to be-

1       come or remain eligible for the benefits of such a  
2       debt-guarantee program.

3       (b) LIMIT ON OUTSTANDING DEBT GUARANTEE.—

4       The aggregate amount of debt covered by the Secretary's  
5       guarantees and commitments to guarantee for all eligible  
6       State programs outstanding at any time shall not exceed  
7       \$5,000,000,000, including interest.

8       (c) FUNDING.—

9           (1) APPROPRIATION OF FEDERAL PAYMENTS.—

10       Subject to subsection (b), there are hereby appro-  
11       priated, out of funds in the Treasury not otherwise  
12       appropriated, such sums as may be necessary to sat-  
13       isfy debt guarantee commitments extended to eligible  
14       State programs under this Act.

15           (2) CERTIFICATION FEE.—Upon certification or  
16       recertification as an eligible State program under  
17       section 4(a) or 4(b), a State program shall be  
18       charged a certification fee sufficient in the judge-  
19       ment of the Secretary at the time of certification to  
20       cover—

21           (A) applicable administrative costs arising  
22       from each certification or recertification, includ-  
23       ing all pre-certification costs and a proportional  
24       share of the costs arising from the administra-  
25       tion of the program established under this Act,



1 but in any event not to exceed one-half of 1  
2 percent annum of the aggregate principal  
3 amount of the debt for which the eligible State  
4 program is issued a guarantee commitment;  
5 and

6 (B) any probable losses on the aggregate  
7 principal amount of the debt for which the eligi-  
8 ble State program is issued a guarantee com-  
9 mitment.

10 (3) RULE OF CONSTRUCTION.—Any funds ex-  
11 pended or obligated by the Secretary for the pay-  
12 ment of administrative expenses for conduct of the  
13 debt-guarantee program authorized by this Act shall  
14 be deemed appropriated at the time of such expendi-  
15 ture or obligation from the certification and recer-  
16 tification fees collected pursuant to paragraph (2).

17 (d) CONDITIONS FOR GUARANTEE ELIGIBILITY.—A  
18 debt guarantee under this section may be made only if  
19 the Secretary has issued a commitment to guarantee to  
20 a certified, eligible State program. The commitment to  
21 guarantee shall be in force for a period of 3 years from  
22 its initial issuance and may be extended by the Secretary  
23 for 1 year on each annual anniversary of the issuance of  
24 the commitment to guarantee. The commitment to guar-  
25 antee and each extension of such commitment may be

1 issued by the Secretary only if the following requirements  
2 are satisfied:

3 (1) The eligible State program submits to the  
4 Secretary a report setting forth, in such form and  
5 including such information as the Secretary shall re-  
6 quire, how the eligible State program plans to repay  
7 guarantee-eligible debt it may incur.

8 (2) Based on the eligible State program's report  
9 submitted pursuant to paragraph (1), the Secretary  
10 determines there is reasonable assurance that the el-  
11 igible State program can meet its repayment obliga-  
12 tion under such debt.

13 (3) The eligible State program enters into an  
14 agreement with the Secretary, as the Secretary shall  
15 require, that the eligible State program will not use  
16 Federal funds of any kind or from any Federal  
17 source (including any disaster or other financial as-  
18 sistance, loan proceeds, and any other assistance or  
19 subsidy) to repay the debt.

20 (4) The commitment to guarantee shall specify  
21 and require the payment of the fees for debt guar-  
22 antee coverage.

23 (5) The maximum term of the debt specified in  
24 a commitment issued under this section may not ex-  
25 ceed 30 years.

1 (e) MANDATORY ASSISTANCE FOR ELIGIBLE STATE  
2 PROGRAMS.—The Secretary shall upon the request of an  
3 eligible State program and pursuant to a commitment to  
4 guarantee issued under subsection (d), provide a guar-  
5 antee under subsection (f) for such eligible State program  
6 in the amount requested by such eligible State program,  
7 subject to the limitation under subsection (f)(2).

8 (f) CATASTROPHE DEBT GUARANTEE.—A debt guar-  
9 antee under this subsection for an eligible State program  
10 shall be subject to the following requirements:

11 (1) PRECONDITIONS.—The eligible State pro-  
12 gram shows to the satisfaction of the Secretary that  
13 insured losses to the eligible State program arising  
14 from the event or events covered by the commitment  
15 to guarantee are likely to exceed 80 percent of the  
16 eligible State program's qualifying assets available to  
17 pay claims, as calculated on the date of the event  
18 and based on the eligible State program's most re-  
19 cent quarterly financial statement filed with its  
20 domiciliary regulator.

21 (2) USE OF FUNDS.—Proceeds of debt guaran-  
22 teed under this section shall be used only to pay the  
23 costs of issuing debt and of securing or providing  
24 claim-payment capacity for paying the insured losses  
25 and loss adjustment expenses incurred by an eligible

1 State program. Such amounts shall not be used for  
2 any other purpose.

3 **SEC. 6. EFFECT OF GUARANTEE.**

4 The issuance of any guarantee by the Secretary  
5 under this Act shall be conclusive evidence that—

6 (1) the guarantee has been properly obtained;

7 (2) the underlying debt qualified for such guar-  
8 antee; and

9 (3) the guarantee is valid, legal, and enforce-  
10 able.

11 **SEC. 7. ASSESSMENT AT TIME OF GUARANTEE.**

12 To extent not satisfied by the fees collected under sec-  
13 tion 5(c)(2), the Secretary shall charge and collect fees  
14 for each guarantee issued in amounts sufficient in the  
15 judgement of the Secretary at the time of issuance of the  
16 guarantee to cover applicable administrative costs and  
17 probable losses on the guaranteed obligations.

18 **SEC. 8. PAYMENT OF LOSSES.**

19 (a) IN GENERAL.—The Secretary agrees to pay to  
20 the duly appointed paying agent or trustee (in this section  
21 referred to as the “Fiscal Agent”) for the eligible State  
22 program that portion of the principal and interest on any  
23 debt guaranteed under this Act that shall become due to  
24 payment but shall be unpaid by the eligible State program  
25 as a result of such program having provided insufficient

1 funds to the Fiscal Agent to make such payments. The  
2 Secretary shall make such payments on the date such  
3 principal or interest becomes due for payment or on the  
4 business day next following the day on which the Secretary  
5 shall receive notice of failure on the part of the eligible  
6 State program to provide sufficient funds to the Fiscal  
7 Agent to make such payments, whichever is later. Upon  
8 making such payment, the Secretary shall be subrogated  
9 to all the rights of the ultimate recipient of the payment.  
10 The Secretary shall be entitled to recover from the eligible  
11 State program the amount of any payments made pursu-  
12 ant to any guarantee entered into under this Act.

13 (b) ROLE OF THE ATTORNEY GENERAL.—The Attor-  
14 ney General shall take such action as may be appropriate  
15 to enforce any right accruing, and to collect any and all  
16 sums owing, to the United States as a result of the  
17 issuance of any guarantee under this Act.

18 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion shall be construed to preclude any forbearance for the  
20 benefit of the eligible State program which may be agreed  
21 upon by the parties to the guaranteed debt and approved  
22 by the Secretary, provided that budget authority for any  
23 resulting cost, as such term is defined under the Federal  
24 Credit Reform Act of 1990, is available.

1 (d) RIGHT OF THE SECRETARY.—Notwithstanding  
2 any other provision of law relating to the acquisition, han-  
3 dling, or disposal of property by the United States, the  
4 Secretary shall have the right in the discretion of the Sec-  
5 retary to complete, recondition, reconstruct, renovate, re-  
6 pair, maintain, operate, or sell any property acquired by  
7 the Secretary pursuant to the provisions of this Act.

8 **SEC. 9. FULL FAITH AND CREDIT.**

9 The full faith and credit of the United States is  
10 pledged to the payment of all guarantees issued under this  
11 Act with respect to principal and interest.

12 **SEC. 10. BUDGETARY IMPACT; COSTS.**

13 For purposes of section 502(5) of the Federal Credit  
14 Reform Act of 1990, the cost of guarantees to be issued  
15 under this Act shall be calculated by adjusting the dis-  
16 count rate in section 502(5)(E) of such Act for market  
17 risk.

18 **SEC. 11. REGULATIONS.**

19 The Secretary shall issue any regulations necessary  
20 to carry out the debt-guarantee program established under  
21 this Act.

○



## CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Set Public Hearing on April 18, 2012 to Consider Amending Lodi Municipal Code Chapter 13.20 – Electrical Service, by Repealing and Re-enacting Section 13.20.175 “Schedule ECA – Energy Cost Adjustment” in its Entirety to Include Flat Energy Cost Adjustment (ECA) Option

**MEETING DATE:** April 4, 2012

**PREPARED BY:** Electric Utility Director

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**RECOMMENDED ACTION:** Set Public Hearing on April 18, 2012 to consider amending Lodi Municipal Code Chapter 13.20 – Electrical Service, by Repealing and Re-enacting Section 13.20.175 “Schedule ECA – Energy Cost Adjustment” in its entirety to Include Flat Energy Cost Adjustment (ECA) option.

**BACKGROUND INFORMATION:** The Electric Utility proposes a flat ECA option for customers taking service under schedule I-1. This would reduce the impact of the monthly ECA and create a levelized payment option. EUD staff will calculate a flat ECA based on projected sales divided by the budgeted NCPA All Resources Bill for the upcoming 12 month period (July-June) minus 8.31 cents. The resulting amount shall be automatically implemented for bills rendered during the 11 billing months beginning in July and ending in May. The June billing shall include a true-up for the actual ECA billed in the same 11 month period and the actual ECA for the month of June.

**FISCAL IMPACT:** None. Full amount of ECA due will be collected within the fiscal year.

**FUNDING:** Not applicable.

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Elizabeth A. Kirkley  
Electric Utility Director

**PREPARED BY:** Matt Foskett, Rates and Resources Manager

EAK/MF/lst

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING LODI  
MUNICIPAL CODE CHAPTER 13.20 – ELECTRICAL SERVICE – BY  
REPEALING AND REENACTING SECTION 13.20.175, “SCHEDULE ECA –  
ENERGY COST ADJUSTMENT” IN ITS ENTIRETY

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1 Lodi Municipal Code Section 13.20.175, “Schedule ECA – Energy Cost Adjustment,” is hereby repealed and reenacted in its entirety to read as follows:

**APPLICABILITY:**

This schedule is applicable to all electric customers served by the City of Lodi. Each customer shall pay the applicable rate plus an Energy Cost Adjustment (ECA) for each kilowatt-hour (kWh) delivered to the customer. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the ECA amount per kWh.

The purpose of the ECA is to adjust for increases/decreases to the City of Lodi's wholesale energy costs. This adjustment provides a mechanism to recover increased costs for wholesale energy or to lower collections when costs decrease below the base charge level.

**RATES:**

Effective July 6, 2007, the ECA billing factor for any given month shall be calculated as follows:

$$ECA = \frac{(a) + (b) - (c)(d+f)}{(e)} - (f)$$

Where:

(a) equals the amount the City of Lodi is actually charged by the Northern California Power Agency for the billing month, including adjustments for prior billing periods, less any third party revenue credits.

(b) equals the City of Lodi's estimated costs related to the acquisition of wholesale power, both financial and physical, procured directly by the City for the billing month, including adjustments for prior billing periods.

(c) equals the difference between actual retail energy sales and projected sales levels for the month which is two (2) months prior to the billing month.

(d) equals the ECA billing factor for the month which is two (2) months prior to the billing month.

(e) equals the forecast of projected retail energy sales for the billing month.

(f) equals the baseline energy cost for the City of \$0.0831.

The City of Lodi will recalculate the ECA each month, and resulting amount shall be automatically implemented for bills rendered during the following billing month. The ECA shall not be discounted.



**SCHEDULE I-1 FIXED ECA OPTION:**

**Customers must elect this option prior to the start of the twelve month cycle (July-June) and must be billed for the entire twelve months under this option. Customers may opt out in the May prior to the next twelve month billing period.**

**The City of Lodi will calculate a fixed ECA based on projected sales divided by the budgeted NCPA All Resource Bill for the upcoming 12 month period (July-June) minus eight point three one (8.31) cents. The resulting amount shall be automatically implemented for bills rendered during the eleven billing months beginning in July and ending in May. The June billing shall include a true-up for the actual ECA billed in the same eleven month period and the actual ECA for the month of June.**

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 6. The amended Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after \_\_\_\_\_, 2012, or the first date allowable under State law.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
JOANNE MOUNCE  
MAYOR

ATTEST:

RANDI JOHL  
City Clerk

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held \_\_\_\_\_, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL  
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER  
City Attorney

## Comments by the public on non-agenda items

**THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.**

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



# CITY OF LODI

## COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Post for Expiring Terms and Vacancies on the Greater Lodi Area Youth Commission

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

**RECOMMENDED ACTION:** Direct the City Clerk to post for expiring terms and vacancies on the Greater Lodi Area Youth Commission.

**BACKGROUND INFORMATION:** Several terms on the Greater Lodi Area Youth Commission are due to expire shortly. Further, two members will be graduating this May resulting in additional vacancies. Therefore, it is recommended that Council direct the City Clerk to post for these expiring terms and vacancies. Government Code Section 54970 *et seq.* requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application.

### **Greater Lodi Area Youth Commission**

**Adult Advisors:**

Elizabeth Mazzeo	Term to expire May 31, 2012
Jeffrey Palmquist	Term to expire May 31, 2012
Summer Pennino	Term to expire May 31, 2012

**Student Members:**

Tyler Bartlam	Term to expire May 31, 2012
Carson Kautz	Term to expire May 31, 2012
Alex Maldonado	Term to expire May 31, 2012
Kelley McConahey	Term to expire May 31, 2012
Allison Schatz	Term to expire May 31, 2012
Dipa Patel	Term to expire May 31, 2013
Kinsey Green	Term to expire May 31, 2013

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** Not applicable.

\_\_\_\_\_  
Randi Johl  
City Clerk

RJ/JMR

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Appointments to the Lodi Improvement Committee

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Concur with the Mayor's recommended appointments to the Lodi Improvement Committee.

**BACKGROUND INFORMATION:** At the February 1, 2012, meeting, the City Council directed the City Clerk to post for expiring terms on the Lodi Improvement Committee. The Mayor reviewed the applications, conducted interviews, and recommends that the City Council concur with the following appointments.

**Lodi Improvement Committee**

Fran Forkas	Term to expire March 1, 2015
Lisa Nixon	Term to expire March 1, 2015
Robert Takeuchi	Term to expire March 1, 2015

NOTE: Seven applicants (three seeking reappointment; two new applications; and two applications on file); posting ordered 2/1/12; application deadline 3/5/12

Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** Not applicable.

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Randi Johl  
City Clerk

RJ/JMR

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, City Manager